

#### **BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF:

GUAM WATERWORKS AUTHORITY'S SHORT-TERM FINANCING CREDIT AGREEMENTS

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#### **GWA DOCKET NO. 25-07**

PETITION TO APPROVE GWA'S SHORT-TERM FINANCING CREDIT AND FEE AGREEMENTS PURSUANT TO PUBLIC LAW 37-103

**COMES NOW**, the Guam Waterworks Authority (GWA), by and through its counsel of record, THERESA G. ROJAS, ESQ., and hereby files this Petition seeking the Public Utilities Commission ("PUC") approval of short-term credit agreements to be entered into with specific financial institutions to include but not limited to GWA and the Royal Bank of Canada ("RBC"), acting through a branch located at 200 Vesey Street, New York, New York pursuant to the authority granted under Public Law (P.L.) 37-103 and the Commission's prior approval in GWA PUC Docket 24-05.

#### I. BACKGROUND

Pursuant to P.L. 37-103, GWA is authorized to secure short-term financing arrangements not to exceed \$360,000,000.00 (Three Hundred Sixty Million) for the purpose of addressing infrastructure improvements and other critical expenditures necessary to fulfill and address GWA and USEPA's 2024 Partial Consent Decree requirements, GWA's water loss, GWA's installation and completion of a reliable and functioning Supervisory Control and Data Acquisition system, and regulatory requirements required to address emerging contaminants such as per- and polyfluoroalkyl substances (PFAS) and Dieldrin.<sup>1</sup>

P.L. 37-103, pursuant to 12 G.C.A. §50103 further approved the issuance of a borrower or financing program to be issued by GWA provided, that the issuance, terms, and conditions of the agreement and/or issuing and paying agent agreement pursuant to which the credit and or fee agreements are to be issued, and any reimbursement agreement, dealer agreement are approved by the PUC and the Guam Consolidated Commission on Utilities ("CCU"). The law further requires that such agreement may be issued in the principal amount from time to time as necessary to provide interim financing for projects identified in GWA's Capital Improvement Program to fund GWA's required operating account and operating reserve account balances, to pay operating expenses incurred by GWA and to pay expenses incurred in connection with the issuance of such agreements as mentioned above not to exceed an aggregate principal outstanding amount at any time of Three Hundred Sixty Million Dollars (\$360,000,000), and provided, that such agreements as may to be after its date or rates and be sold for such price or prices in such parameters as may be approved by the PUC and the CCU.<sup>2</sup>

On March 25, 2025, by CCU GWA Resolution No. 23-FY2025, the CCU approved GWA's request for the execution and delivery of one or more credit agreements pursuant to a financing framework confirming GWA's authority to enter short-term credit facilities subject to the CCU's review and approval of individual agreements. CCUGWA Resolution 23-FY2025 and its supporting exhibits are attached hereto as **Exhibit A** and are incorporated by reference as if fully set forth herein. Therein the CCU specifically authorized that such loans and agreements

<sup>&</sup>lt;sup>1</sup> P.L. 37-103 <sup>2</sup> P.L. 37-103

shall be issued in such series and amounts and at such times as the Chair or Vice-Chair of the CCU, or the Chief Financial Officer or the General Manager of GWA (the "Designated Officers") deem appropriate, provided that such loans have final maturities no later than 30 years from their dates of issuance, bear interest at such rate or rates and are sold for such price or prices not exceeding any limitation established by the P.L. 37-103 and 12 G.C.A. Chapter 14, and are issued and sold pursuant to the Credit Agreements attached herein and otherwise in compliance with the provisions of both P.L. 37-103 and 12 G.C.A. Chapter 14.

Herewith, GWA has negotiated one or more short-term Revolving Credit and Fee Agreements with the Royal Bank of Canada ("RBC"), acting through a branch located at 200 Vesey Street, New York, New York; and within those respective agreements the attached terms include the specific manner of borrowing, term commitments, interest, fees, and repayment of loan terms. See **Exhibit B**.

**Exhibit B** is a sample Revolving Credit and Fee Agreement and is provided here to facilitate and initiate review to support the necessary PUC approvals. A finalized version of the Revolving Credit and Fee Agreement between GWA and RBC and an updated Term Sheet are not included in any Exhibit here as they were not available at the time of this filing; however, both are expected to be completed and available within no more than one week from today's filing and once finalized the Agreement(s) and/or any Term Sheet shall be filed with the Public Utilities Commission (PUC) and Exhibit B and possibly a new Exhibit C shall be substituted.

Notwithstanding the above, the proposed financing arrangements, to be substituted, OR that are attached hereto are consistent with the authority granted under Public Law 37-103 and conform to the framework previously approved by the Consolidated Commission on Utilities (CCU).

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#### II. REQUEST FOR APPROVAL

GWA respectfully requests that the PUC review and approve the proposed Credit and Fee Agreements and Term Sheet attached herein to confirm that such agreement and terms are favorable to GWA and are issued under commercially favorable terms and are within the scope of authority granted under Public Law 37-103, GWA PUC Docket 24-05, and 12 G.C.A. Chapter 14.

The anticipated Term Sheet is planned to reflect a current, non-binding commitment from RBC to provide GWA with short-term financing in the form of one or more loans totaling between \$55,000,000.00 (Fifty-Five Million) and \$75,000,000 (Seventy-Five Million). These loans will have a two-year term with the interest rates as indicated and as capped by law and are intended to fund critical capital projects, including those required by the Partial Consent Decree Order and US EPA and local EPA regulatory mandates. This funding will also support essential upgrades and improvements to GWA's water and wastewater system to ensure its continued safe operation and full compliance with applicable laws.

#### III. CONCLUSION

Based on the foregoing, GWA requests the PUC's approval of the proposed credit Terms and Credit Agreements as set forth above, attached herein, OR as may be substituted before the conclusion of this proceeding, as it is reasonable, prudent, and necessary.

**RESPECTFULLY SUBMITTED** this 9<sup>th</sup> day of May, 2025.

By:

/s/ THERESA G. ROJAS, ESQ. GWA Legal Counsel



CONSOLIDATED COMMISSION ON UTILITIES Guam Power Authority | Guam Waterworks Authority P.O. Box 2977 Hagatna, Guam 96932 | (671)649-3002 | guamccu.org

#### **GWA RESOLUTION NO. 23-FY2025**

### RELATIVE TO AUTHORIZING THE EXECUTION AND DELIVERY OF ONE OR MORE CREDIT AGREEMENTS, AND AUTHORIZING THE EXECUTION AND DELIVERY THEREOF

WHEREAS, under 12 G.C.A. § 14105, the Consolidated Commission on Utilities (the "Commission") has plenary authority over financial, contractual and policy matters relative to the Guam Waterworks Authority (the "Authority"); and

WHEREAS, the Authority is a Guam Public Corporation established and existing under the laws of Guam; and

WHEREAS, Article 2, Chapter 14, Title 12 of the Guam Code Annotated and Public Law No. 37-103(together, the "Act") authorizes the Authority to obtain financial assistance from commercial banks in one or more series of loans pursuant to one or more credit agreements (each a "Credit Agreement") to fund Authority project costs, as well as to provide liquidity and/or credit support in connection with the issuance of commercial paper or other instruments of indebtedness, in accordance with and subject to the requirements and limitations set forth in the Act; and

WHEREAS, the Authority has determined it is necessary and desirable to enter into one or more Credit Agreements; and

WHEREAS, the Authority has previously made and entered into an Indenture dated as of December 1, 2005 (as previously supplemented and amended, the "Indenture"), by and among the Authority, Bank of Guam, as trustee (the "Trustee") and U.S. Bank Trust Company, National Association, as co-trustee (the "Co-Trustee"), which authorized one or more series of Guam Waterworks Authority Water and Wastewater System Revenue Bonds (the "Bonds"); and

WHEREAS, the Authority currently intends that its repayment obligations under the Credit Agreements be secured by a pledge of Revenues (as defined under the Indenture) on a basis subordinate to the Bonds;

WHEREAS, the Authority intends in the future that its repayment obligations under the Credit Agreements be secured by a pledge of Revenues (as defined under the Indenture) on a parity basis to the Bonds;

WHEREAS, there has been presented to this meeting the form of Credit Agreement, between the Authority and one or banks to be named therein (collectively, the "Banks"); and

WHEREAS, the Authority has requested or will request that the Public Utilities Commission of Guam (the "PUC") approve the execution and delivery of one or more Credit Agreements pursuant to the Act; and

NOW, THEREFORE, BE IT RESOLVED, by the Consolidated Commission on Utilities as follows:

<u>Section 1</u>. The foregoing recitals are true and correct.

Section 2. Issuance of one or more series of loans from time to time pursuant to the Act and the Credit Agreements is hereby authorized, which may be taxable or tax-exempt, in an aggregate principal amount not to exceed an aggregate principal amount of \$360,000,000 outstanding at any one time, plus related costs of issuance. Such loans shall be issued in such series and amounts and at such times as the Chair of the Commission, the Vice-Chair of the Commission, the Chief Financial Officer or the General Manager of the Authority (the "Designated Officers") deem appropriate, provided that such loans have final maturities no later than 30 years from their dates of issuance, bear interest at such rate or rates and are sold for such price or prices not exceeding any limitation established by the Act, and are issued and sold pursuant to the Credit Agreements and otherwise in compliance with the provisions of the Act.

The loans shall be limited obligations of the Authority payable solely from revenues and other assets of the Authority pledged for such purpose and shall not be a debt or liability of the Government of Guam.

The Chair of the Commission and the appropriate officials of the Authority are hereby authorized and directed, subject to the approval of the PUC, to execute and countersign, for and on behalf and in the name of the Authority, the Credit Agreements and loans, in an aggregate principal amount not to exceed the amount authorized hereby, in accordance with the Credit Agreements.

Section 4. The Credit Agreement presented to this meeting is hereby approved, with such additions, changes and modifications as the Designated Officers may approve upon consultation with legal counsel, such approval to be conclusively evidenced by the Credit Agreements executed by such Designated Officers, who are each hereby severally authorized and directed, subject to the approval of the PUC, to execute the same. The Designated Officers are hereby authorized one or more credit agreements in the form of the Credit Agreement presented to this meeting with one or more Banks.

<u>Section 5.</u> The appropriate officials of the Authority are hereby authorized and directed to do any and all things, including without limitation, to obtain credit ratings, to conduct investor outreach and related activities, to participate in marketing and sales activities, and to execute and deliver any and all documents, certificates, notices, directions, consents, filings, invitations, statements of information and agreements which they may deem necessary or advisable in order to effectuate the purposes of this resolution, including, without limitation, closing documents and certificates, including a tax certificate, any documents in furtherance of one or more escrow agreements, amendments to any existing agreements.

<u>Section 6.</u> All actions heretofore taken by the officers, representatives or agents of the Authority in connection with the execution and delivery of the Credit Agreement and the loans are hereby ratified, confirmed and approved.

Section 8. The Credit Agreements shall not be executed and delivered without the approval of the Guam Public Utilities Commission in accordance with the Act and Chapter 12 of Title 12, Guam Code Annotated.

<u>Section 9</u>. This resolution shall take effect from and after its adoption.

**RESOLVED,** that the Chairman certifies and the Board Secretary attests to the adoption of this Resolution.

DULY AND REGULARLY ADOPTED, this 25th day of March 2025.

Certified by: FRANCIS E. SANT Chairperson

Attested by:

MELVIN F. DUENAS Secretary

#### SECRETARY'S CERTIFICATE

I, Melvin Duenas, Board Secretary of the Consolidated Commission on Utilities as evidenced by my signature below do hereby certify as follows:

The foregoing is a full, true and accurate copy of Resolution No. 23-FY2025 duly adopted at a regular meeting by the members of the Guam Consolidated Commission on Utilities, duly and legally held at a place properly noticed and advertised at which meeting a quorum was present and the members who were present voted as follows:

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Exhibit A-004

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AYES:

NAYS:

ABSENT:

ABSTAIN:

SO CERTIFIED this 25th day of March, 2025.

MELVIN F. DUENAS Secretary Consolidated Commission on Utilities

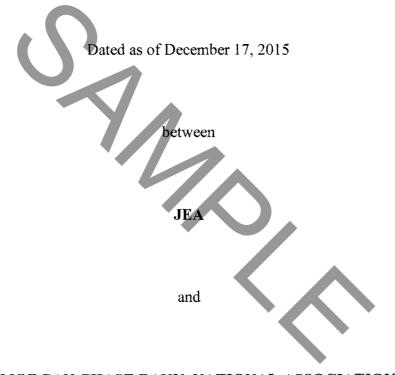
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### EXECUTION COPY





### JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

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#### **REVOLVING CREDIT AGREEMENT**

THIS REVOLVING CREDIT AGREEMENT (as amended, supplemented, restated, and/or otherwise modified or replaced, this "Agreement") is dated as of December 17, 2015, between JEA (the "Borrower") and JPMORGAN CHASE BANK, NATIONAL ASSOCIATION (the "Bank").

WHEREAS, the Borrower is a body politic and corporate duly organized and existing under the laws of the State of Florida and an independent agency of the City of Jacksonville, Florida (the "*City*") established under Article 21 of the Charter of the City, as amended and readopted by Chapter 80-515, Laws of Florida, Special Acts of 1980, as subsequently amended by Chapter 92-341, Laws of Florida, Special Acts of 1992 and as thereafter amended in accordance with the terms thereof prior to the date hereof, and other applicable provisions of law (collectively, the "*Act*");

WHEREAS, the Borrower is authorized pursuant to the Act to own, manage and operate the Electric System (as defined in the Electric System Resolution), the Water and Sewer System (defined as the "System" in the Water and Sewer System Resolution), the District Energy System (defined as the "System" in the District Energy System Resolution), the St. Johns River Power Park System (defined as "System" in the St. John River Power Park System Second Revenue Bond Resolution) and the Project (as defined in the Bulk Power Supply System Revenue Bond Resolution) and the Borrower is authorized pursuant to the Act to establish, own, manage and operate additional utility systems and anticipates that one or more such additional utility systems may hereafter be established by the Borrower (each of the foregoing, individually, a "System" and collectively, the "Systems");

WHEREAS, pursuant to Resolution No. 2015-06 adopted by the Borrower on November 30, 2015 (as it may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms hereof, the "*Note Resolution*"), the Borrower has approved the execution and delivery of this Agreement and authorized the making of Borrowings from time to time hereunder of up to \$300,000,000 in aggregate principal amount outstanding at any one time, to provide the Borrower with working capital and short-term and interim financing for capital projects in connection with the Systems; and

WHEREAS, the Bank has agreed to make loans, on the terms and conditions set forth herein, to the Borrower and the Borrower agrees to repay those Loans and pay certain other amounts as provided herein; and

Now **THEREFORE**, the parties hereto agree as follows:

#### **ARTICLE I**

#### **DEFINITIONS**

Section 1.01. Definitions. (a) Capitalized terms used herein but not otherwise defined in subsection (b) below or elsewhere herein shall have the meanings given to them in the Note Resolution.

The following terms, as used herein, have the following meanings:

*"Additional System"* shall mean such additional utility system or systems as may hereafter be established by the Borrower, separate and apart from the Electric System, the Water and Sewer System, the District Energy System, SJRPP and BPSS, and approved by the Bank for the purpose of making Loans hereunder pursuant to Section 3.03 of this Agreement.

"Additional System Bonds" shall mean, with respect to any Additional System, all bonds authenticated and delivered pursuant to an Additional System Resolution and all additional obligations payable on a parity therewith issued in accordance with the terms of such Additional System Resolution.

"Additional System Loans" means, with respect to any Additional System, Loans made to provide working capital or short-term or interim financing for such Additional System.

"Additional System Net Revenues" shall mean, with respect to any Additional System, the net revenues of such Additional System, determined as shall be provided in the applicable Additional System Resolution.

"Additional System Notes" shall mean, with respect to any Additional System, the Additional System Revolving Credit Subordinated Bank Note or Notes authorized to be issued pursuant to an Additional System Supplemental Resolution.

"Additional System Resolution" shall mean, with respect to any Additional System, such resolution as shall be adopted by the Borrower authorizing the issuance of the obligations payable from the revenues or net revenues of such Additional System, as the same may be amended and supplemented in accordance with the provisions hereof and thereof.

"Additional System Supplemental Resolution" means a resolution supplemental to the Note Resolution adopted pursuant to Article XIV of the Note Resolution authorizing Borrowings under this Agreement for obtaining funds for working capital purposes and short-term or interim financing for capital projects for the Additional System referred to in such supplemental resolution and authorizing the issuance of Additional System Notes to evidence such Borrowings.

"Affiliate" means any other Person controlling or controlled by or under common control with the Borrower. For purposes of this definition, "control," when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting rights, membership, the power to appoint members, trustees or directors, by contract or otherwise.

"Annual Disclosure Report" means the "Annual Disclosure Report for Electric Utility System for Fiscal Year Ended September 30, 2014" dated as of April 16, 2015 as updated and replaced from time to time.

*"Applicable Law"* shall mean (i) all applicable common law and principles of equity and (ii) all applicable provisions of all (A) constitutions, statutes, rules, regulations and orders of all Governmental Authorities, (B) Governmental Approvals and (C) orders, decisions, judgments

and decrees of all courts (whether at law or in equity) and arbitrators. Whenever the Applicable Law of a particular jurisdiction is referred to in this Agreement, such reference shall be deemed to include the Applicable Law of all political subdivisions of such jurisdiction.

"Applicable Spread" means a rate per annum associated with the Level corresponding to the Rating, as specified below.

APPLICABLE SPREAD

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LEVEL	MOODY'S RATING	S&P RATING	FITCH RATING	TAX EXEMPT	TAXABLE
Level 1	Aa3 or above	AA- or above	AA- or above		¢8
Level 2	A 1	A+	$\mathbf{A}$ +		
Level 3	A2	A	А		
Level 4	A3	A-	A-	ж.	
Level 5	Baal	BBB+	BBB+	(52)	
Level 6	Baa2	BBB	BBB		
Level 7	Baa3	BBB-	BBB-		
					42

As used above, Rating means the lowest, unenhanced long-term debt rating assigned to any senior lien Debt of the System to which the Loan being made relates issued or incurred under the applicable Resolution for such System and secured by any of the Bulk Power Supply System Net Revenues, District Energy System Net Revenues, Electric System Net Revenues, St. Johns River Power Park System Net Revenues, or Water and Sewer System Net Revenues. In the event that any rating with respect to any obligation secured by Bulk Power Supply System Net Revenues, District Energy System Net Revenues, Electric System Net Revenues, St. Johns River Power Park System Net Revenues, or Water and Sewer System Net Revenues, as applicable, is suspended, withdrawn or otherwise unavailable from any Rating Agency (except to the extent that the Borrower provides written evidence that the unavailability of such rating is for non-credit related reasons; the Bank agrees that acceptable written evidence that the unavailability of such rating is for non-credit related reasons includes, but is not limited to, a letter from the holder or underwriter of such obligation at the time such obligation was sold or transferred such that a rating for such obligation was not desired, or a letter from the applicable Rating Agency stating that the unavailability of such rating is for non-credit related reasons), and so long as such rating shall remain suspended, withdrawn or unavailable, the Applicable Spread shall immediately equal the rate set forth in Level 7 above, without notice to the Borrower (provided, however, that the Bank will use commercially reasonable efforts to provide notice thereof to the Borrower as promptly as possible thereafter). Upon the occurrence and at all times during the continuance of an Event of Default, the Applicable Spread shall immediately equal the Applicable Spread otherwise in effect plus 5% per annum, without notice to the Borrower (provided, however, that the Bank will use commercially reasonable efforts to provide notice thereof to the Borrower as promptly as possible thereafter). Any change in the Applicable Spread resulting from a change in the Rating shall be and become effective as of and on the date of the announcement of the change in the Rating. References to ratings above are references to rating categories as presently determined by the Rating Agencies and in the event of adoption of any new or changed rating system, the ratings from the Rating Agency in question referred to above shall be deemed to refer to the rating category under the new rating system that most closely approximates the applicable rating category as currently in effect. The Borrower acknowledges that as of the Effective Date the Applicable Spread is that specified above for Level 1. The Applicable Spread for Tax Exempt Loans which are LIBOR Loans will be the Applicable Spread stated in the column captioned "Tax Exempt" and on the appropriate Level. The Applicable Spread for Taxable Loans which are LIBOR Loans will be the Applicable Spread in the column captioned "Tax Exempt" and on the appropriate Level.

"Authorized Officer" shall mean (i) the Chair, the Vice Chair, the Secretary or any Assistant Secretary of the Borrower, (ii) the Managing Director/CEO, the Vice President and General Manager, Electric Systems (with respect to the Electric System, the St. Johns River Power Park System and the Bulk Power Supply System), the Vice President and General Manager, Water and Sewer Systems (with respect to the Water and Sewer and the District Energy System), the Chief Financial Officer and the Treasurer of the Borrower (or any officer of the Borrower hereafter serving in a capacity equivalent to that of any of the foregoing officers) or (iii) any other officer or employee of the Borrower authorized to perform specific acts or duties by resolution duly adopted by the Borrower.

"Available Date" means the later of (i) December 17, 2015, and (ii) the date on which the conditions precedent set forth in Section 3.04 shall have been satisfied.

"BPSS" means the Project, as such term is defined in the Bulk Power Supply System Revenue Bond Resolution.

"BPSS Bonds" means Bulk Power Supply System Bonds (as defined in the Note Resolution).

*"BPSS Loans"* means Loans or Term Loans, as applicable, made to provide working capital or short-term or interim financing for BPSS.

*"BPSS Note"* means each of the Bulk Power Supply System Revolving Credit Subordinated Bank Note, Series TE-X, and the Bulk Power Supply System Revolving Credit Subordinated Bank Note, Series T-X of the Borrower, each substantially in the form set forth in Section 13.05 of the Note Resolution, evidencing the obligation of the Borrower to repay the BPSS Loans and interest thereon, issued under the Note Resolution and in accordance with this Agreement.

"Bank Rate" means a rate of interest per annum with respect to any Term Loan equal to (i) during the period from the date such Term Loan is made to the date that is 90 days thereafter, the Term Loan Interest Rate and (ii) on and after the date that is 90 days after the Term Loan is made, the Term Loan Interest Rate plus 1.00%; provided, however, that immediately and automatically upon the occurrence of any Event of Default (and without any notice given with respect thereto) and during the continuance of such Event of Default, the "Bank Rate" shall be the Default Rate.

"Base Rate" means, for any day, a rate of interest per annum equal to the highest of (i) the Prime Rate plus one-half percent (0.50%) and (ii) the Federal Funds Rate plus one percent (1.00%).

"Base Rate Loan" means any Loan outstanding hereunder which bears interest at the Base Rate.

*"Borrowing"* means a borrowing hereunder consisting of a Loan to be made to the Borrower by the Bank pursuant to Article II.

"Bulk Power Supply System" means, collectively, the Scherer 4 Project and each Additional Project, as such terms are defined in the Bulk Power Supply System Revenue Bond Resolution.

"Bulk Power Supply System Revenue Bond Resolution" shall mean the resolution of the Borrower entitled "Restated and Amended Bulk Power Supply System Revenue Bond Resolution" adopted November 18, 2008, authorizing the issuance of the BPSS Bonds, as the same has been or hereafter may be amended, restated and supplemented in accordance with the provisions hereof and thereof.

"Business Day" means:

(A) With respect to a request for, or making of, a Loan, any day, other than a Saturday or Sunday, on which the Bank's office is open for business during its normal business hours and (for purposes of determining LIBOR) on which dealings in U.S. dollar deposits are carried on in the London Inter-Bank market.

(B) For any other purpose, any day, other than a Saturday or Sunday, on which the Lending Office of the Bank and the main office of the Borrower are open for business during their respective normal business hours.

"Change in Law" shall mean the occurrence, after the date of this Agreement, of any of the following: (i) the adoption of or taking effect of any Law, including, without limitation, any Risk-Based Capital Guidelines, (ii) any change in any Law or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (iii) the compliance by the Bank or any Holder with any request, rule, ruling, guideline, regulation or directive (whether or not having the force of law) by any Governmental Authority made or issued after the date of this Agreement; provided that, notwithstanding anything herein to the contrary, (A) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, ruling, guidelines, regulations or directives thereunder or issued in connection therewith, and (B) all requests, rules, rulings, guidelines, regulations or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"City" is defined in the recitals hereto.

"Code" means the Internal Revenue Code of 1986, as amended, and any successor statute thereto.

"*Commitment*" means the amount of \$300,000,000, as such amount may be reduced from time to time pursuant to Sections 2.07, 2.08 and 6.01 hereof.

"Connection Income Taxes" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profit Taxes.

"Conversion Date" has the meaning assigned to such term in Section 2.12.

"Debt" of any Person means, at any date, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (iv) all obligations of such Person as lessee which are capitalized in accordance with generally accepted accounting principles (or, in the case of the Borrower, GAAP), (v) all obligations of such Person to purchase securities (or other property) which arise out of or in connection with the sale of the same or substantially similar securities or property, (vi) all non-contingent obligations of such Person to reimburse the Bank or other Person in respect of amounts paid under a letter of credit or similar instrument, (vii) all Debt of others secured by a Lien on any asset of such Person, whether or not such Debt is assumed by such Person, and (viii) all Debt of others Guaranteed by such Person.

"Default" means any condition or event which constitutes an Event of Default or which with the giving of notice or lapse of time or both would, unless cured or waived, become an Event of Default.

"Default Rate" shall mean, (i) with respect to any LIBOR Loan during the period from the date of the occurrence of an Event of Default with respect to such Loan, to the last day of the then applicable Interest Period, an interest rate equal to the rate borne by such Loan plus 3.00% per annum and thereafter at a rate equal to the rate described in clause (ii) of this definition and (ii) with respect to any Base Rate Loan and, to the extent provided in clause (i) of this definition, any LIBOR Loan, and any Term Loan, a rate equal to the greater of (A) the sum of the Base Rate, plus the Applicable Spread, plus 3.00% and (B) 10.00% per annum.

"Determination Date" has the meaning set forth in Section 2.05(e).

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

(i) on the date when the Borrower files any statement, supplemental statement or other tax schedule, return or document which discloses that an Event of Taxability shall have in fact occurred;

(ii) on the date when the Bank notifies the Borrower that it has received a written opinion by a nationally recognized firm of attorneys of

substantial expertise on the subject of tax-exempt municipal finance to the effect that an Event of Taxability has occurred, unless, within one hundred eighty (180) days after receipt by the Borrower of such notification from the Bank, the Borrower shall deliver to the Bank a ruling or determination letter issued to or on behalf of the Borrower by the Commissioner or any District Director of the Internal Revenue Service (or any other governmental official exercising the same or a substantially similar function from time to time) to the effect that, after taking into consideration such facts as form the basis for the opinion that an Event of Taxability has occurred, an Event of Taxability shall not have occurred;

(iii) on the date when the Borrower shall be advised in writing by the Commissioner or any District Director of the Internal Revenue Service (or any other government official or agent exercising the same or a substantially similar function from time to time) that based upon filings of the Borrower (or a statutory notice of deficiency, or a document of substantially similar import), or upon any review or audit of the Borrower, or upon any other ground whatsoever, an Event of Taxability shall have occurred; or

(iv) on the date when the Borrower shall receive notice from the Bank that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed as includable in the gross income of the Bank or any Participant, the interest on any Tax Exempt Loan due to the occurrence of an Event of Taxability;

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

"District Energy System" means the System as defined in the District Energy System Resolution.

"District Energy System Bonds" has the meaning set forth in the Note Resolution.

"District Energy System Commitment" means \$25,000,000, as such amount may be reduced from time to time pursuant to Section 2.07, 2.08 and 6.01 hereof.

"District Energy System Loans" means Loans or Term Loans, as applicable, made to provide working capital or short-term or interim financing for the District Energy System.

"District Energy System Note" means the District Energy System Revolving Credit Subordinated Bank Note, Series TE-X and the District Energy System Revolving Credit Subordinated Bank Note, Series T-X, of the Borrower, each substantially in the form set forth in Section 13.03 of the Note Resolution, evidencing the obligation of the Borrower to repay the District Energy System Loans and interest thereon, issued under the Note Resolution and in accordance with this Agreement.

"District Energy System Resolution" means the District Energy System Revenue Bond Resolution adopted by the Borrower on June 15, 2004, as the same has been or hereafter may be amended, restated and supplemented in accordance with the provisions hereof and thereof.

*"ERISA"* means the Employee Retirement Income Security Act of 1974, as amended, or any successor statute.

"Effective Date" means the date this Agreement becomes effective in accordance with Section 3.01.

"Electric System" has the meaning set forth in the Electric System Resolution.

"*Electric System Bonds*" means "Bonds" as such term is defined in the Electric System Resolution.

"*Electric System Loans*" means Loans or Term Loans, as applicable, made to provide working capital or short-term or interim financing for the Electric System.

*"Electric System Note"* means each of the Electric System Revolving Credit Subordinated Bank Note, Series TE-X and the Electric System Revolving Credit Subordinated Bank Note, Series T-X, of the Borrower, each substantially in the form set forth in Section 13.01 of the Note Resolution, evidencing the obligation of the Borrower to repay the Electric System Loans and interest thereon, issued under the Note Resolution and in accordance with this Agreement.

*"Electric System Resolution"* shall mean the resolution of the Borrower adopted March 30, 1982, authorizing the issuance of the Electric System Bonds, as the same has been or hereafter may be amended and supplemented in accordance with the provisions hereof and thereof.

*"Electric System Resolutions"* means the Electric System Resolution and the Electric System Subordinated Resolution.

*"Electric System Subordinated Resolution"* shall mean the resolution of the Borrower adopted August 16, 1988, authorizing the issuance of Electric System Subordinated Bonds, as the same has been or hereafter may be amended, restated and supplemented in accordance with the provisions hereof and thereof.

"Event of Default" has the meaning set forth in Section 6.01.

*"Event of Taxability"* means (i) a change in Law or fact or the interpretation thereof, or the occurrence or existence of any fact, event or circumstance (including, without limitation, the taking of any action by the Borrower, or the failure to take any action by the Borrower, or the making by the Borrower of any misrepresentation herein or in any certificate required to be given in connection with this Agreement) which has the effect of causing interest paid or payable on the applicable Tax Exempt Loan or the applicable Note to become includable, in whole or in part, in the gross income of the Bank or any holder thereof for federal income tax purposes or (ii) the entry of any decree or judgment by a court of competent jurisdiction, or the taking of any official action by the Internal Revenue Service or the Department of the Treasury, which decree, judgment or action shall be final under applicable procedural law, in either case, which has the effect of causing interest paid or payable on the applicable Tax Exempt Loan or the applicable Note to become includable, in whole or in part, in the gross income of the Bank or any holder for federal income tax purposes.

*"Excluded Taxes"* means any of the following Taxes imposed on or with respect to the Bank or any Holder or required to be withheld or deducted from a payment to the Bank or any Holder, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of the Bank or such Holder being organized under the laws of, or having its principal office or its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, and (b) any U.S. Federal withholding Taxes imposed under FATCA.

*"Facility Maturity Date"* means December 17, 2018, or, if such day is not a Business Day, the next preceding Business Day, as such date may be extended pursuant to the terms hereof.

"Factor" means, with respect to any LIBOR Loan that is a Taxable Loan, one hundred percent (100%) and, with respect to any LIBOR Loan that is a Tax Exempt Loan, seventy percent (70%).

"*FATCA*" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreement entered into pursuant to Section 1471(b)(1) of the Code.

*"Federal Funds Rate"* means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Bank from three Federal funds brokers of recognized standing selected by it; *provided*, that, if the Federal Funds Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

*"Financing Documents"* means this Agreement and (i) in the case of Electric System Loans, the Electric System Resolution, the Electric System Subordinated Resolution, the Note Resolution (to the extent it relates to the Electric System) and the Electric System Note, (ii) in the case of Water and Sewer System Loans, the Water and Sewer System Resolution, the Water and Sewer System Subordinated Resolution, the Note Resolution (to the extent it relates to the Water and Sewer System) and the Water and Sewer System Note, (iii) in the case of District Energy System Loans, the District Energy System Resolution, the Water and Sewer System Resolution, the Water and Sewer System Subordinated Resolution, and the Note Resolution (to the extent it relates to the District Energy System, the Water and Sewer System and the Electric System) and the District Energy System Note, (iv) in the case of SJRPP Loans, the St. Johns River Power Park System Second Revenue Bond Resolution, the Electric System Resolution, the Electric System Subordinated Resolution, the Note Resolution (to the extent it relates to SJRPP and the Electric System) and the SJRPP Note, (v) in the case of BPSS Loans, the Bulk Power Supply System Revenue Bond Resolution, the Electric System Resolution, the Note Resolution (to the extent it relates to BPSS and the Electric System) and the BPSS Note, (vi) the Note Resolution (any part thereof that does not relate directly to the Electric System, the Water and Sewer System, the District Energy System, the SJRPP or the BPSS) and (vii) in the case of Additional System Loans, if any, any Additional System Resolution, the Note Resolution (to the extent it relates to the Additional System) and the Additional System Notes.

"First Amending Resolution" means the resolution adopted by the Borrower on May 19, 1998 entitled "a resolution of the Jacksonville Electric Authority (i) providing for the amendment and restatement of a resolution of said Authority adopted on March 30, 1982 entitled "a resolution authorizing the refunding of presently outstanding revenue obligations of the Jacksonville Electric Authority and the acquisition and construction of additions, extensions and improvements to the electric generation, transmission and distribution system owned and operated by the Authority; providing for the issuance of not exceeding \$487,000,000 Electric System Revenue Bonds, Series One, of the Jacksonville Electric Authority to pay the cost of such refunding and the cost of such additions, extensions and improvements; providing for the payment of the bonds from the net revenues of the electric system and making certain covenants and agreements in connection therewith; and providing an effective date", as heretofore amended and supplemented, upon the satisfaction of certain conditions, including, without limitation, consent of the holders of sixty per centum (60%) or more in principal amount of the Bonds issued pursuant thereto outstanding and (ii) providing for the further amendment thereof upon the satisfaction of certain conditions; and providing an effective date," as amended on June 5, 1998 and March 20, 2007.

*"Fitch"* means Fitch, Inc., d/b/a Fitch Ratings.

"GAAP" has the meaning set forth in Section 1.02.

"Governmental Approvals" shall mean an authorization, consent, approval, license or exemption of, registration or filing with, or report to, any Governmental Authority.

"Governmental Authority" means the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"Guarantee" by any Person means any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Debt or other obligation of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (i) to purchase or pay (or advance or supply funds for the purchase or payment at) such Debt or other obligation (whether arising by virtue of partnership arrangements, by agreement to keep-well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement conditions or otherwise) or (ii) entered into for the purpose of assuring in any other manner the obligee of such Debt or other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part); *provided* that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business. The term "Guarantee" used as a verb has a corresponding meaning.

*"Holder"* shall mean the Bank and any other holder of the Notes or Term Loan Notes, or any entity to which the Bank or any such other holder sells a participation in the Notes or Term Loan Notes (whether or not the Borrower was given notice of such sale and whether or not the Holder has an interest in the Notes or Term Loan Notes, at the time amounts are payable to such Holder thereunder and under this Agreement).

"Indemnified Taxes" shall mean (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Borrower hereunder or under any Financing Document and (b) to the extent not otherwise described in (a) hereof, Other Taxes.

"Interest Payment Date" means, (i) with respect to each Borrowing of Base Rate Loans, the first Business Day of each month and the Facility Maturity Date, (ii) with respect to each Borrowing of LIBOR Loans, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a LIBOR Loan with an Interest Period of more than three months' duration, each day prior to the last day of such Interest Period that occurs at intervals of three months' duration after the first day of such Interest Period, and the Facility Maturity Date and (iii) with respect to any Term Loans, the first Business Day of each month and the Term Loan Maturity Date.

"Interest Period" means with respect to any LIBOR Loan, the period commencing on the date of such Borrowing of LIBOR Loans and ending on the numerically corresponding day in the calendar month that is one, three or six months thereafter, as the Borrower may elect, provided, that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (ii) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing of LIBOR Loans initially shall be the date on which such Loan is made, and thereafter shall be the effective date of the most recent conversion or continuation of such Loan.

"Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or any successor statute.

*"Investment Policy"* means the investment policy of the Borrower provided to the Bank pursuant to Section 3.01(f) hereof.

"Laws" shall mean any treaty or any federal, regional, state and local law, statute, rule, ordinance, regulation, code, license, authorization, decision, injunction, interpretation, order or decree of any court or other Governmental Authority.

*"Lending Office"* means the office of the Bank to which notices of Borrowings hereunder shall be given and to which payments of amounts due hereunder and under the Notes and Term Loan Notes shall be made, which office (and any changes thereto) shall be communicated promptly by the Bank to the Borrower at its address specified in or pursuant to Section 8.01.

"LIBOR" means, with respect to any Borrowing of LIBOR Loans for any Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate for U.S. Dollars for a period equal in length to such Interest Period as displayed on pages LIBOR01 or LIBOR02 of the Reuters screen that displays such rate (or, in the event such rate does not appear on a Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time as selected by the Bank in its reasonable discretion; in each case the "LIBO Screen Rate") at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period; provided that if the LIBO Screen Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"LIBOR Loan" means a Loan outstanding hereunder the interest rate on which is calculated using LIBOR.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset. For the purposes of this Agreement, the Borrower shall be deemed to own subject to a Lien any asset which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such asset.

"Loan" means a Loan to be made by the Bank in accordance with a Notice of Borrowing pursuant to Article II. The term "Loan" means, individually, an Electric System Loan, a Water and Sewer System Loan, a District Energy System Loan, a SJRPP Loan, a BPSS Loan, or an Additional System Loan, and "Loans" means Electric System Loans, Water and Sewer System Loans, District Energy Systems Loans, SJRPP Loans, BPSS Loans, and Additional System Loans, or a combination thereof, as applicable, and shall include Base Rate Loans and LIBOR Loans whether Taxable Loans or Tax Exempt Loans.

*"Margin Rate Factor"* means the greater of (a) 1.0, and (b) the product of (i) one minus the Maximum Federal Corporate Tax Rate multiplied by (ii) 1.53846. The effective date of any change in the Margin Rate Factor shall be the effective date of the decrease or increase (as applicable) in the Maximum Federal Corporate Tax Rate resulting in such change.

*"Margin Stock"* shall have the meaning assigned to such term in Regulation U promulgated by the Board of Governors of the Federal Reserve System, as now and hereafter from time to time in effect.

"*Material Debt*" means any Debt of the Borrower secured by the net revenues of the applicable System (other than the applicable Note), arising in one or more related or unrelated transactions, in an aggregate principal amount exceeding (i) in the case of the Electric System, \$30,000,000, determined separately as to any other System, (ii) in the case of the Water and Sewer System, \$30,000,000, determined separately as to any other System, (iii) in the case of the District Energy System, \$10,000,000, determined separately as to any other System, (v) in the case of the BPSS, \$20,000,000, determined separately as to any other System, and (vi) in the case of any Additional System, \$10,000,000, determined separately as to any other System.

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

"Maximum Rate" means the maximum rate of interest on the relevant obligation permitted by applicable law.

"Moody's" means Moody's Investors Service, Inc.

*"Note"* and *"Notes"* means individually or collectively, as applicable, each Electric System Note, each Water and Sewer System Note, each District Energy System Note, each SJRPP Note, each BPSS Note, and any Additional System Notes.

"Note Resolution" is defined in the recitals hereto.

"Notice of Borrowing" has the meaning set forth in Section 2.02(a).

*"Notice of Reallocation"* has the meaning set forth in Section 2.01(c).

"Other Connection Taxes" means, with respect to the Bank or any Holder, Taxes imposed as a result of a present or former connection between the Bank and such Holder and the jurisdiction imposing such Tax (other than connections arising from the Bank or such Holder having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced this Agreement or any other Financing Document, or sold or assigned an interest in any Loan, Term Loan, this Agreement or any other Financing Document).

"Other Taxes" shall mean all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement or any other Financing Document.

"Parent" means, with respect to the Bank, any Person controlling the Bank.

"Participant" has the meaning set forth in Section 8.05(b).

*"Person"* means an individual, a corporation, a partnership, an association, a trust or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"Prime Rate" means the rate of interest per annum publicly announced from time to time by JPMorgan Chase Bank, N.A. as its prime rate in effect at its office located at 270 Park Avenue, New York, New York; each change in the Prime Rate shall be effective from and including the date such change is publicly announced as being effective.

*"Prior Lien BPSS Projects Subordinated Obligations"* shall mean any Subordinated Indebtedness hereafter issued under (and as defined in) the Bulk Power Supply System Revenue Bond Resolution and designated by the Borrower as Prior Lien BPSS Projects Subordinated Obligations.

"Prior Lien District Energy System Subordinated Obligations" shall mean any Subordinated Indebtedness hereafter issued under (and as defined in) the District Energy System Resolution and designated by the Borrower as Prior Lien District Energy System Subordinated Obligations.

"Prior Lien Electric System Subordinated Bonds" shall mean the Subordinated Bonds issued under (and as defined in) the Electric System Subordinated Resolution.

"Prior Lien St. Johns River Power Park System Subordinated Obligations" shall mean any Subordinated Indebtedness hereafter issued under (and as defined in) the St. Johns River Power Park System Second Revenue Bond Resolution and designated by the Borrower as Prior Lien St. Johns River Power Park System Subordinated Obligations.

"Prior Lien Water and Sewer System Subordinated Obligations" shall mean the Subordinated Bonds issued under (and as defined in) the Water and Sewer System Subordinated Resolution and Existing Parity Subordinated Indebtedness and Additional Parity Subordinated Indebtedness (each as defined in the Water and Sewer System Subordinated Resolution).

"*Rating Agency*" and "*Rating Agencies*" means, individually or collectively, as applicable, Moody's, S&P and/or Fitch.

"Regulation U" means Regulation U of the Board of Governors of the Federal Reserve System, as in effect from time to time.

*"Resolutions"* means the Electric System Resolutions, the Water and Sewer System Resolutions, the District Energy System Resolution, the St. Johns River Power Park System Bond Resolution, the St. Johns River Power Park System Second Revenue Bond Resolution, the Bulk Power Supply System Revenue Bond Resolution and the Note Resolution and, if applicable, any Additional System Resolutions.

*"Revolving Credit Period"* means the period from and including the Available Date to and including the Termination Date.

*"Risk-Based Capital Guidelines"* shall mean (i) the risk-based capital guidelines in effect in the United States on the Effective Date, including transition rules, and (ii) the corresponding capital regulations promulgated by regulatory authorities outside the United States including transition rules, and any amendments to such regulations adopted prior to the Effective Date.

"Sanctioned Country" means, at any time, a country or territory which is the subject or target of any Sanctions.

"Sanctions" means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State.

"S&P" means Standard & Poor's, a business of Standard & Poor's Financial Services LLC.

"SJRPP" means the System, as defined in the St. Johns River Power Park System Second Revenue Bond Resolution.

*"SJRPP Bonds"* shall mean "Bonds" as such term is defined in the St. Johns River Power Park System Second Revenue Bond Resolution.

"SJRPP Loans" means Loans or Term Loans, as applicable, made to provide working capital or short-term or interim financing for SJRPP.

*"SJRPP Note"* means each of the St. Johns River Power Park System Revolving Credit Subordinated Bank Note, Series TE-X and the St. Johns River Power Park System Revolving Credit Subordinated Bank Note, Series T-X, of the Borrower, each substantially in the form set forth in Section 13.04 of the Note Resolution, evidencing the obligation of the Borrower to repay the SJRPP Loans and interest thereon, issued under the Note Resolution and in accordance with this Agreement.

"St. Johns River Power Park System Bond Resolution" means the St. Johns River Power Park System Revenue Bond Resolution adopted by the Borrower on March 30, 1982, as amended and supplemented from time to time in accordance with the terms thereof and hereof.

"St. Johns River Power Park System Second Revenue Bond Resolution" means the resolution of the Borrower adopted February 20, 2007, as amended and supplemented from time to time in accordance with the terms thereof.

"State" means the State of Florida.

"Subsidiary" means any corporation or other entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are at the time directly or indirectly owned by the Borrower.

"Swap Contract" means any and all interest rate swap transactions, basis swaps, interest rate options, interest rate cap transactions, interest rate floor transactions, interest rate collar transactions, or any other similar interest rate derivative transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to an ISDA master agreement.

"System" or "Systems" has the meaning provided in the second Whereas clauses hereof.

*"Taxable Date"* means, with respect to any Tax Exempt Loan and/or Note evidencing a Tax Exempt Loan, the date on which interest thereon is first includable in gross income of any Holder thereof (including the Bank or any Participant) as a result of an Event of Taxability as such a date is established pursuant to a Determination of Taxability.

"*Taxable Loan*" means any Loan outstanding hereunder the interest on which is not excludable from gross income for federal income tax purposes.

*"Taxable Loan Commitment"* means the portion of the Commitment which is available for Borrowings of Taxable Loans, initially, an amount equal to \$200,000,000, of which \$20,000,000 is available for the District Energy System Loans, and, upon delivery to the Bank of a Notice of Reallocation and replacement Notes in accordance with Section 2.01(c), such other amount as may be requested by JEA as the new Taxable Loan Commitment.

"*Taxable Period*" has the meaning set forth in Section 7.03 hereof.

*"Taxable Rate"* means (i) for any Tax Exempt Loan that is a LIBOR Loan with respect to which a Taxable Date occurs, an interest rate equal to the sum of (A) LIBOR multiplied by a Factor of 100% plus (B) the Applicable Spread for Taxable Loans, (ii) with respect to any Base Rate Loan, the Base Rate and (iii) with respect to any Term Loan, the Bank Rate, provided, in all instances, upon the occurrence and during the continuance of an Event of Default with respect to any Loan or Term Loan, such Loan or Term Loan shall bear interest at the Default Rate.

*"Tax Exempt Loan"* means any Loan or Term Loan outstanding hereunder the interest on which is excludable from gross income for federal income tax purposes.

*"Tax Exempt Loan Commitment"* means the portion of the Commitment which is available for Borrowings of Tax Exempt Loans, initially, an amount equal to \$100,000,000, of which \$5,000,000 is available for the District Energy System Loans, and upon delivery to the Bank of a Notice of Reallocation and replacement Notes in accordance with Section 2.01(c), such other amount as may be requested by JEA as the new Tax Exempt Loan Commitment.

*"Taxes"* shall mean all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, fines, additions to tax or penalties applicable thereto.

"Term Loan" and Term Loans" has the meaning set forth in Section 2.12(a).

"Term Loan Interest Rate" means a rate of interest per annum equal to the highest of (a) the Prime Rate plus one and one-half percent (1.50%), (b) the Federal Funds Rate plus two percent (2.00%) or (c) 7.50%.

*"Term Loan Maturity Date"* means, with respect to any Term Loan, the date that is five years after the making of the Term Loan hereunder, or such earlier date as the Term Loan becomes due and payable by the terms hereof.

*"Term Loan Note(s)"* means the note(s) made by the Borrower to the Bank to evidence the obligations of the Borrower under the related Term Loan.

*"Termination Date"* means the Facility Maturity Date or, if earlier, the date on which the Commitment is terminated or permanently reduced to zero in accordance with the terms hereof.

"Threshold Amount" means, (i) in the case of Electric System, \$30,000,000, determined separately as to any other System, (ii) in the case of Water and Sewer System, \$30,000,000, determined separately as to any other System, (iii) in the case of District Energy System, \$10,000,000, determined separately as to any other System, (iv) in the case of SJRPP, \$20,000,000, determined separately as to any other System, (v) in the case of BPSS, \$20,000,000, determined separately as to any other System, and (vi) in the case of any Additional System, \$10,000,000, determined separately as to any other System.

*"Type"*, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan is determined by reference to LIBOR or to the Base Rate.

"Water and Sewer System" means the System, as defined in the Water and Sewer System Resolution.

"Water and Sewer System Amendatory Resolution" means Resolution No. 2013-10, duly adopted at a meeting of the Borrower duly called and held on June 18, 2013 entitled "Fortieth Supplemental Water and Sewer System Resolution", as amended to the date hereof, which amendments made by such resolution requiring bondholder consent are not effective as of the date hereof.

"Water and Sewer System Bonds" means "Bonds" and "Subordinated Bonds" as such terms are respectively defined in the Water and Sewer System Resolutions.

"Water and Sewer System Loans" means Loans or Term Loans, as applicable, made to provide working capital or short-term or interim financing for the Water and Sewer System.

"Water and Sewer System Note" means each of the Water and Sewer System Revolving Credit Subordinated Bank Note, Series TE-X and the Water and Sewer System Revolving Credit Subordinated Bank Note, Series T-X, of the Borrower, each substantially in the form set forth in Section 13.02 of the Note Resolution, evidencing the obligation of the Borrower to repay the Water and Sewer System Loans and interest thereon, issued under the Note Resolution and in accordance with this Agreement. "Water and Sewer System Resolution" has the meaning set forth in the Note Resolution.

"Water and Sewer System Resolutions" means the Water and Sewer System Resolution and the Water and Sewer System Subordinated Resolution.

"Water and Sewer System Subordinated Resolution" has the meaning set forth in the Note Resolution.

Section 1.02. Accounting Terms and Determinations. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared in accordance with generally accepted accounting principles as in effect from time to time, applied on a basis consistent (except for changes concurred in by the Borrower's independent public accountants) with the most recent audited financial statements of the Borrower delivered to the Bank hereunder ("GAAP").

#### **ARTICLE II**

THE CREDIT

#### Section 2.01. Commitment to Lend.

During Revolving Credit Period. During the Revolving Credit Period, the (a) Bank agrees, on the terms and conditions set forth in this Agreement, to make loans to the Borrower pursuant to this Section from time to time in amounts such that (i) the aggregate principal amount of Loans by the Bank at any one time outstanding shall not exceed the amount of the Commitment, (ii) the aggregate principal amount of Taxable Loans by the Bank at any time outstanding shall not exceed the Taxable Loan Commitment, (iii) the aggregate principal amount of Tax Exempt Loans by the Bank at any time outstanding shall not exceed the Tax Exempt Loan Commitment and (iv) the aggregate principal amount of District Energy System Loans by the Bank at any time outstanding shall not exceed the District Energy System Commitment. Subject to Section 2.05(d), each Borrowing of Loans shall be comprised entirely of LIBOR Loans or Base Rate Loans as the Borrower may request in accordance herewith. At the commencement of each Interest Period for any LIBOR Loan, such Borrowing of LIBOR Loans shall be in a minimum aggregate amount of \$1,000,000 and integral multiples of \$100,000 in excess thereof. At the time each Borrowing of Base Rate Loans is made, such Borrowing of Base Rate Loans shall be in a minimum aggregate amount of \$1,000,000 and integral multiples of \$100,000 in excess thereof. There shall not at any time be more than a total of fifteen (15) LIBOR Loans outstanding. Within the foregoing limit, the Borrower may borrow under this subsection (a), repay or, to the extent permitted by Section 2.09, prepay, Loans and re-borrow at any time during the Revolving Credit Period under this subsection (a).

(b) *Extension of Revolving Credit Period*. (i) No later than 485 days prior to the Facility Maturity Date, the Borrower may request the Bank to extend the then current Facility Maturity Date for a period of no less than 365 days by delivery of a Request for

Extension in the form of Exhibit D. If the Bank, in its sole discretion, elects to extend the Facility Maturity Date then in effect, it shall deliver to the Borrower within 30 days of receiving said request a written notice of extension (herein referred to as a "*Notice of Extension*") in the form of Exhibit E designating the date to which the Facility Maturity Date is being extended. Such extension of the Facility Maturity Date shall be effective, after receipt of such Notice of Extension, on the Business Day following the date of delivery of such Notice of Extension, and thereafter all references in this Agreement to the Facility Maturity Date shall be deemed to be references to the date designated as such in the most recent Notice of Extension delivered to the Borrower. Any date to which the Facility Maturity Date has been extended in accordance with this Section 2.01(b) may be extended in like manner. If the Bank fails to provide the Borrower with a Notice of Extension as provided hereinabove, the Bank shall be deemed not to have consented to the Borrower's request. The Bank shall promptly notify the Borrower if it will not extend the Facility Maturity Date, but the Bank's failure to do so shall be deemed a denial of the extension request.

(ii) Notwithstanding the foregoing, it is understood and agreed that the foregoing provisions are intended for the convenience of the parties only and shall in no respect prohibit the parties from agreeing to extend the Revolving Credit Period under other circumstances or at other times. In the event the Revolving Credit Period is extended under any other circumstances, the Bank shall give prompt written notice thereof to the Borrower.

(iii) If the Revolving Credit Period is extended, whether pursuant to Section 2.01(b)(i) or otherwise, the Borrower shall be deemed to have made the representations and warranties contained herein on the date on which the Revolving Credit Period is so extended.

Reallocation of Taxable and Tax Exempt Commitment. (c) On any Business Day during the Revolving Credit Period, but no more frequently than once every three (3) months (and no more than four times per year), the Borrower may reallocate the portion of the Commitment which constitutes the Taxable Loan Commitment and the portion of the Commitment which constitutes the Tax Exempt Loan Commitment by delivery to the Bank (i) two Business Days prior to the requested reallocation, of a notice in the form of Exhibit A-3 hereto, executed by two Authorized Officers of the Borrower (a "Notice of Reallocation"), and (ii) on the effective date of such reallocation, (A) duly executed replacement Notes in the amounts of the new Taxable Loan Commitment and the new Tax Exempt Loan Commitment and complying with the provisions of Section 2.03, and (B) any opinion or certificate as may be requested by the Bank as to the replacement Notes, in each case, in form and substance satisfactory to the Bank. On the second Business Day following delivery to the Bank of such Notice of Reallocation, and subject to delivery to the Bank of the replacement Notes and opinions and/or certificates in accordance with this Section 2.01(c), the Taxable Loan Commitment and the Tax Exempt Loan Commitment shall be reallocated as provided in the Notice of Reallocation, provided that at no time may the Taxable Loan Commitment plus the Tax Exempt Loan Commitment exceed the Commitment.

Section 2.02. Method of Borrowing; Account to Which Proceeds of Loans to Be Credited; Conversion of Loans. (a) In the case of any Borrowing, the Borrower shall give the Bank notice in the form of Exhibit A-1 hereto, executed by two Authorized Officers of the Borrower (a "*Notice of Borrowing*"), (x) for any Borrowing which will be a LIBOR Loan by not later than 11:00 a.m. (New York City time) on the third Business Day before each such Borrowing, and (y) for any Borrowing which will be a Base Rate Loan, by not later than 11:00 a.m. (New York City time) one Business Day before the date of each such Borrowing, in each case specifying:

(i) the date of such Borrowing, which shall be a Business Day,

(ii) the aggregate amount of such Borrowing (which shall not exceed the difference between (A) the amount of the Commitment and (B) the aggregate principal amount of Loans then outstanding),

(iii) whether such Borrowing is for the Electric System, the Water and Sewer System, the District Energy System (in which case the aggregate amount of such Borrowing shall not exceed the difference between (A) the amount of the District Energy System Commitment and (B) the aggregate principal amount of District Energy System Loans then outstanding), SJRPP, BPSS, or an Additional System,

(iv) whether the Borrowing will be a LIBOR Loan or a Base Rate Loan,

(v) in the case of a Borrowing of any LIBOR Loan, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and

(vi) whether the Borrowing will be a Taxable Loan (in which case the aggregate amount of such Borrowing shall not exceed the difference between (A) the amount of the Taxable Loan Commitment and (B) the aggregate principal amount of Taxable Loans then outstanding) or a Tax Exempt Loan (in which case the aggregate amount of such Borrowing shall not exceed the difference between (X) the amount of the Tax Exempt Loan Commitment and (Y) the aggregate principal amount of Tax Exempt Loans then outstanding).

If no Interest Period is specified with respect to any requested Borrowing of LIBOR Loan, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. If no election as to the Type of Loan is specified, then the requested Loan will be a Base Rate Loan. Unless the Borrower otherwise notifies the Bank in writing, each LIBOR Loan will automatically roll-over based upon the selected Interest Period through the Loan Maturity Date as indicated in and as defined in the Notice of Borrowing or the Notice of Conversion, as applicable.

(b) If the Bank makes a new Loan hereunder on a day on which the Borrower is to repay all or any part of an outstanding Loan, unless the Borrower shall otherwise repay the Loan coming due on such date, the Bank shall apply the proceeds of its new

Loan to make such repayment and in such event only an amount equal to the difference (if any) between the amount being borrowed and the amount being repaid shall be made available by the Bank to the Borrower or remitted by the Borrower to the Bank, as the case may be.

(c) Subject to the provisions of subsection (b) of this Section 2.02, by not later than 3:00 p.m. (New York City time) on the date of each Borrowing, the Bank shall wire transfer, in federal or other immediately available funds, the proceeds of such Borrowing to the following account: Account Name:

; provided, however, that the

Borrower may, from time to time, change such account by notice in the form of Exhibit B hereto, executed by an Authorized Officer of the Borrower, given to the Bank at its address referred to in Section 8.01.

(d) The Borrower may elect to convert Loans to a different Type or to continue such Loan, and in the case of LIBOR Loans, may elect Interest Periods therefor, by delivering to the Bank a notice in the form of Exhibit A-2 hereto, executed by two Authorized Officers of the Borrower (a "*Notice of Conversion*") by not later than the time that a Notice of Borrowing would be required under Section 2.02(a) if the Borrower were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election, specifying:

(i) the date of such conversion or continuation, which shall be a Business Day during the Revolving Credit Period and, in the case of a LIBOR Loan being converted to a Base Rate Loan or to a different Interest Period, shall be the last day of the Interest Period,

(ii) the amount and specific Loan to which the election applies, and if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing of Loans (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing of Loans),

(iii) whether such Loan is a Taxable Loan or a Tax Exempt Loan, and

(iv) whether the Borrowing will be a LIBOR Loan or a Base Rate Loan and if the resulting Borrowing is a LIBOR Loan, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

The Borrower may elect different options with respect to different portions of the affected Borrowing of Loans, in which case the Borrowing of Loans comprising each such portion shall be considered a separate Loan. If any Notice of Conversion requests a LIBOR Loan but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

(e) With respect to any LIBOR Loan which will not automatically roll-over to another Interest Period, if at the end of such Interest Period applicable thereto, the

Borrower fails to deliver a timely Notice of Conversion with respect to such LIBOR Loan, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to a Base Rate Loan. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing then, so long as an Event of Default is continuing (i) no outstanding Loan may be converted to or continued as a LIBOR Loan and (ii) unless repaid, each LIBOR Loan shall be converted to a Base Rate Loan at the end of the Interest Period applicable thereto.

(f) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing of LIBOR Loans if the Interest Period requested with respect thereto would end after the Facility Maturity Date.

Section 2.03. The Notes. (a) The Taxable Loans and the Tax Exempt Loans of each System shall be evidenced by a single corresponding Note for each System (one for all Taxable Loans related to such System and one for all Tax Exempt Loans related to such System) payable to the Bank, with respect to the Taxable Loans, in an amount equal to the Taxable Loan Commitment (other than the Note for the District Energy System, which will be in an amount equal to such System's portion of the Taxable Loan Commitment) or, with respect to the Tax Exempt Loans, in an amount equal to the Tax Exempt Loans, in an amount equal to the Tax Exempt Loan Commitment (other than the Note for the Tax Exempt Loan Commitment (other than the Note for the Tax Exempt Loan Commitment (other than the Note for the District Energy System, which will be in an amount equal to such System's portion of the Tax Exempt Loan Commitment (other than the Note for the District Energy System, which will be in an amount equal to such System's portion of the Tax Exempt Loan Commitment (other than the Note for the District Energy System, which will be in an amount equal to such System's portion of the Tax Exempt Loan Commitment) or, if less, the aggregate unpaid principal amount of the Loans borrowed by such System and in the applicable form attached to the Note Resolution.

(b) Each Note shall be in substantially the applicable form set forth in Article XIII of the Note Resolution with appropriate modifications to reflect the fact that it evidences solely Electric System Loans, Water and Sewer System Loans, District Energy System Loans, SJRPP Loans, or BPSS Loans, as applicable and, in each case, whether such Note evidences Taxable Loans (designated as Series T-X) or Tax Exempt Loans (designated as Series TE-X).

(c) With respect to any Additional System, any Additional System Loans shall be evidenced by a single Additional System Note payable to the Bank in an amount equal to the Commitment or such lesser amount as is agreed to by the Bank and the Borrower, or, if less, the aggregate unpaid principal amount of the Additional System Loans. Each such Note shall be in substantially the applicable form set forth in Additional System Supplemental Resolution with appropriate modifications. Each reference in this Agreement to the "Additional System Notes" shall be deemed to refer to and include any or all of such Additional System Notes, as the context may require.

Section 2.04. Maturity of Loans and Term Loans. (a) Each Loan included in any Borrowing shall mature, and the principal amount thereof shall be due and payable in full, on the Facility Maturity Date, or such earlier date as the Borrower may designate on any Notice of Borrowing.

(b) The Term Loans shall mature, and the principal amount thereof (together with all accrued and unpaid interest thereon) shall be due and payable as provided in Section 2.12.

Section 2.05. Interest Rates. (a) Subject to subsections (c), (d) and (e) below, each Loan shall bear interest on the outstanding principal amount thereof, for each day from the date such Loan is made until it becomes due, at the applicable rate per annum described below:

(i) For Taxable Loans that are LIBOR Loans, a rate equal to the sum of (A) the product of LIBOR for the Interest Period in effect for such LIBOR Loan multiplied by the Factor plus (B) the Applicable Spread;

(ii) For Tax Exempt Loans that are LIBOR Loans, a rate equal to the product of (A) the sum of (1) the Applicable Spread plus (2) the product of LIBOR for the Interest Period in effect for such LIBOR Loan multiplied by the Factor, multiplied by (B) the Margin Rate Factor; and

(iii) For Base Rate Loans, a rate equal to the Base Rate.

Such interest shall be payable in arrears on each Interest Payment Date for such Loan, provided that (x) in the event of any repayment or prepayment of any Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (y) in the event of any conversion of any LIBOR Loan prior to the end of the current Interest Period therefor accrued interest on such Loan shall be payable on the effective date of such conversion.

(b) The Bank shall determine the interest rate applicable to the Loans hereunder. The Bank shall give prompt notice to the Borrower by facsimile or electronic mail of each rate of interest so determined, and its determination thereof shall be conclusive in the absence of manifest error.

(c) (i) If the amount of interest payable for any period in accordance with terms hereof exceeds the amount of interest that would be payable for such period had interest for such period been calculated at the Maximum Rate, then interest for such period shall be payable in an amount calculated at the Maximum Rate for such period.

(ii) Any interest that would have been due and payable for any period but for the operation of Section 2.05(c)(i) shall accrue and be payable as provided in paragraph (iii) of this Section 2.05(c) and shall constitute the "Excess Interest Amount."

(iii) If there is any accrued and unpaid Excess Interest Amount as of any Interest Payment Date, then, on the current and each subsequent Interest Payment Date, interest shall be calculated and paid at the Maximum Rate rather than the otherwise applicable rate until the earlier of (A) the date on which all interest paid to the Bank equals all interest accrued on the Loans plus the entire accrued Excess Interest Amount or (B) the Facility Maturity Date with respect to Loans, or the Term Loan Maturity Date with respect to Term Loans.

Notwithstanding the foregoing, all unpaid Excess Interest Amount shall be, to the extent permitted by law, due and payable by the Borrower as a fee on the Facility Maturity Date (or if such Excess Interest relates to Term Loans, on the Term Loan Maturity Date).

(d) If the Bank determines in its sole discretion at any time (the "*Determination Date*") that it can or should no longer make, fund or maintain LIBOR Loans because of regulatory action or investigation, illegality, or because the LIBOR cannot be ascertained, then the Bank will notify the Borrower and thereafter will have no obligation (but only for the period such determination continues) to make, fund or maintain LIBOR Loans. On and after the Determination Date (but only for the period such determination continues) Loans already in effect and to be in effect will bear interest at the Base Rate.

(e) Upon the occurrence and during the continuance of an Event of Default with respect to a Loan or Term Loan, such Loan or Term Loan shall bear interest at the Default Rate, such interest to be payable upon demand.

(f) The Term Loans shall bear interest on the outstanding principal amount thereof, for each date from the date of extension of such Term Loan until it becomes due, at a rate per annum equal to the Bank Rate. Such interest shall be payable on each Interest Payment Date (commencing on the first Interest Payment Date immediately succeeding the extension of such Term Loan) and on the Term Loan Maturity Date.

(g) If the Bank shall incur any loss, cost or expense (including, without limitation, any loss, cost or expense incurred by reason of the liquidation or re-employment of deposits or other funds acquired by the Bank to fund or maintain any Loan or the relending or reinvesting of such deposits or amounts paid or prepaid to the Bank) as a result of:

(i) any payment, conversion, prepayment or repayment of a LIBOR Loan on a date other than on the last day of an Interest Period applicable thereto,

(ii) any failure by the Borrower to make any payment of principal on any LIBOR Loan when due (whether by acceleration or otherwise), or

(iii) any acceleration of the maturity of any LIBOR Loan as a result of the occurrence of any Event of Default hereunder,

then, upon the demand of the Bank, the Borrower shall pay to the Bank such amount as will reimburse the Bank for such loss, cost or expense. If the Bank makes such a claim for compensation, it shall provide to the Borrower a certificate setting forth the amount of such loss, cost or expense in reasonable detail and the amounts shown on such certificate shall be conclusive if reasonably determined.

Section 2.06. Fees. (a) The Borrower agrees to pay to the Bank a nonrefundable fee (the "Commitment Fee") on the daily unused amount of the Commitment, accruing at a rate per

annum (the "Commitment Fee Rate") associated with the Level corresponding to the Rating, as specified below:

				COMMITMENT FEE RATE	
LEVEL	MOODY'S	S&P	FITCH	AT LEAST	LESS THAN
	RATING	RATING	RATING	1.00% DRAWN	1.00% DRAWN
Level 1	Aa3 or above	AA- or above	AA- or above		
Level 2	A 1	A+	A+		
Level 3	A2	A	А		
Level 4	A3	A-	A-		
Level 5	Baa 1	BBB+	BBB+	8	
Level 6	Baa2	BBB	BBB		
Level 7	Baa3	BBB-	BBB-		
				25	2::

As used above, Rating means the lowest, unenhanced long-term debt rating assigned to any bonds or other obligations issued under any Resolution for any System and secured on a senior basis by any of the Bulk Power Supply System Net Revenues, District Energy System Net Revenues, Electric System Net Revenues, St. Johns River Power Park System Net Revenues, or Water and Sewer System Net Revenues. In the event that any such senior rating with respect to any obligation secured by Bulk Power Supply System Net Revenues, District Energy System Net Revenues, Electric System Net Revenues, St. Johns River Power Park System Net Revenues, or Water and Sewer System Net Revenues, as applicable, is suspended, withdrawn or otherwise unavailable from any Rating Agency (except to the extent that the Borrower provides written evidence that the unavailability of such rating is for non-credit related reasons; the Bank agrees that acceptable written evidence that the unavailability of such rating is for non-credit related reasons includes, but is not limited to, a letter from the holder or underwriter of such obligation at the time such obligation was sold or transferred such that a rating for such obligation was not desired, or a letter from the applicable Rating Agency stating that the unavailability of such rating is for non-credit related reasons), and so long as such rating shall remain suspended, withdrawn or unavailable, the Commitment Fee Rate shall immediately equal the rate set forth in Level 7 above, without notice to the Borrower (provided, however, that the Bank will use commercially reasonable efforts to provide notice thereof to the Borrower as promptly as possible thereafter). Upon the occurrence and at all times during the continuance of an Event of Default, the Commitment Fee Rate shall immediately equal the Commitment Fee Rate otherwise % per annum, without notice to the Borrower (provided, however, that the in effect plus Bank will use commercially reasonable efforts to provide notice thereof to the Borrower as promptly as possible thereafter). Any change in the Commitment Fee Rate resulting from a change in the Rating shall be and become effective as of and on the date of the announcement of the change in the Rating. References to ratings above are references to rating categories as presently determined by the Rating Agencies and in the event of adoption of any new or changed rating system, the ratings from the Rating Agency in question referred to above shall be deemed to refer to the rating category under the new rating system that most closely approximates the applicable rating category as currently in effect. The Borrower acknowledges that as of the Effective Date the Commitment Fee Rate is that specified above for Level 1. For any period of time during which the principal amount of all Loans outstanding is less than 1.00% of the Commitment, the Commitment Fee shall be calculated using the percentage set forth in the column entitled "LESS THAN 1.00% DRAWN" on the appropriate Level. Otherwise the Commitment Fee shall be calculated using the percentages set forth in the column entitled "AT LEAST 1.00% DRAWN" on the appropriate Level. Notwithstanding the foregoing, for the period from and including the Effective Date to and including the third (3<sup>rd</sup>) Business Day thereafter, the Commitment Fee shall be calculated using the percentages set forth in the column entitled "AT LEAST 1.00% DRAWN" without regard to the principal amount of Loans outstanding.

The Commitment Fee shall be payable quarterly in arrears on the first Business Day of each October, January, April and July (commencing on January 4, 2016, for the period from and including the Effective Date to and including December 31, 2015), and on the Termination Date. The Commitment Fee shall be calculated on the basis of a 360-day year and actual days elapsed.

(b) Upon each amendment hereof, consent or waiver hereunder or under any Financing Document, the Borrower shall pay or cause to be paid reasonable attorneys' fees and expenses, if any, incurred by the Bank in processing such amendment, consent or waiver, and a fee to the Bank of **Sector** (or such other amount as the Borrower and the Bank may agree) for each such amendment, consent or waiver.

(c) If the Borrower shall fail to pay any amount payable under this Section 2.06 as and when due, each such unpaid amount shall bear interest for each day from and including the date it was due until paid in full at the Default Rate.

(d) The Borrower shall pay within thirty (30) days after demand:

(i) all costs and expenses of the Bank in connection with the enforcement (whether by means of legal proceedings or otherwise) of any of its rights under this Agreement, the other Financing Documents and such other documents which may be delivered in connection therewith;

(ii) the reasonable fees and out-of-pocket expenses for counsel or other reasonably required consultants to the Bank in connection with advising the Bank as to its rights and responsibilities under this Agreement and the other Financing Documents or in connection with Events of Default, potential Events of Default and responding to requests from the Borrower for approvals, consents and waivers; and

(iii) any amounts advanced by or on behalf of the Bank to the extent required to cure any Default, Event of Default or event of nonperformance hereunder or any Financing Document, together with interest at the Default Rate.

(e) Any principal of, and to the extent permitted by applicable law, any interest on, the Loans, Term Loans, and any other sum payable hereunder, which is not paid when due shall bear interest, from the date due and payable until paid, payable on demand, at a rate per annum equal to the Default Rate.

## Exhibit A-034

(f) The Borrower agrees to pay the Bank a draw fee of **S** for each Borrowing under this Agreement, payable without any requirement of notice or demand by the Bank on the day on which any Borrowing of Loans is made, which amount shall be fully earned when due and nonrefundable when paid.

(g) If at the end of any quarterly period ending on March 31, June 30, September 30, or December 31, the aggregate principal amount of the Loans outstanding is equal to or greater than 50% of the Commitment, the Borrower agrees to pay the Bank a nonrefundable fee of **Security** on such quarterly period end date.

Section 2.07. Optional Termination or Reduction of Commitment. (a) During the Revolving Credit Period, the Borrower may, upon at least three Business Days' prior notice to the Bank, (i) terminate the Commitment in full at any time, if no Loans are outstanding at such time, or (ii) reduce the Commitment from time to time by an aggregate amount of \$1,000,000 or any larger integral multiple of \$100,000, which amount shall be not greater than the amount of the Commitment in excess of the aggregate outstanding principal amount of the Loans.

(b) Notwithstanding any provision of this Agreement to the contrary, the Borrower agrees not to terminate or permanently reduce the Commitment prior to the Facility Maturity Date, except upon (i) the payment by the Borrower to the Bank of the Termination Fee or a Reduction Fee, as described below, with respect to any termination or permanent reduction of the Commitment prior to the second  $(2^{nd})$  anniversary of the Effective Date, (ii) with respect to the termination or permanent reduction in full of the Commitment, the payment by the Borrower to the Bank of all obligations of the Borrower payable under this Agreement and the other Financing Documents, and (iii) the Borrower providing the Bank with three (3) days prior written notice of its intent to terminate or permanently reduce the Commitment.

(c) The Borrower hereby agrees to pay to the Bank a Termination Fee in connection with the termination of the Commitment by the Borrower in an amount equal to the difference between (x) the product of (A) the Commitment Fee Rate in effect pursuant to Section 2.06(a) hereof on the date of termination, (B) the amount of the Commitment as of the Effective Date, and (C) a fraction, the numerator of which is equal to the number of days from and including the date of such termination to and including the second  $(2^{nd})$  anniversary of the Effective Date and the denominator of which is 360, and (y) any amounts previously paid pursuant to Section 2.07(d) hereof (the *"Termination Fee"*), payable on the date the Commitment is terminated.

(d) The Borrower hereby agrees to pay to the Bank a reduction fee in connection with each and every permanent reduction of the Commitment by the Borrower in an amount equal to the product of (A) the Commitment Fee Rate in effect pursuant to Section 2.06(a) hereof on the date of such permanent reduction, (B) the difference between the amount of the Commitment prior to such permanent reduction and the amount of the Commitment after such permanent reduction, and (C) a fraction, the numerator of which is equal to the number of days from and including the date of such permanent reduction to and including the second  $(2^{nd})$  anniversary of the Effective Date

and the denominator of which is 360 (the "*Reduction Fee*"), payable on each date that the Commitment is permanently reduced.

(e) Notwithstanding the foregoing, the Borrower will not be obligated to pay the Termination Fee or Reduction Fee, as applicable, if (A) the Bank's short-term credit rating has been reduced below A-1 by S&P, P1 by Moody's or F-1 by Fitch, (B) the Bank has charged the Borrower (and the Borrower has paid) for increased costs pursuant to Section 7.01 hereof or (C) the Borrower terminates or permanently reduces the Commitment prior to the Facility Maturity Date and repays all outstanding Loans from a source of funds which does not involve the issuance by a bank or other financial institution of a letter of credit, liquidity facility, line of credit, bank direct purchase or similar credit facility, and no replacement facility is put in place. For the avoidance of doubt, no Termination Fee or Reduction Fee will be owed by the Borrower if a termination or reduction occurs after the second  $(2^{nd})$  anniversary of the Effective Date.

Section 2.08. Mandatory Termination or Reduction of Commitment. The Commitment shall terminate on the Facility Maturity Date, or earlier as provided in Section 2.07, and Section 6.01 hereof, and any Loans then outstanding (together with accrued interest thereon) shall be due and payable on such date.

Section 2.09. Optional Prepayments. Subject to Section 2.05(g) hereof, the Borrower may, upon at least one Business Day's notice to the Bank, prepay any Loan or Term Loan in whole at any time, or from time to time in part in amounts aggregating \$1,000,000 or any larger integral multiple of \$100,000, by paying the principal amount to be prepaid together with accrued interest thereon to the date of prepayment.

Section 2.10. General Provisions as to Payments. The Borrower shall make each payment of principal of, and interest on, the Loans and Term Loans and of fees hereunder, not later than 3:00 p.m. (New York City time) on the date when due, in federal or other funds immediately available in New York City, to the Bank at its address referred to in Section 8.01 or by Fed Wire to

, or pursuant to instructions that the Bank may provide from time to time. Whenever any payment of principal of, or interest on, the Loans or Term Loans or of fees shall be due on a day which is not a Business Day, the date for payment thereof shall be extended to the next succeeding Business Day. If the date for any payment of principal is extended by operation of law or otherwise, interest thereon shall be payable for such extended time.

Section 2.11. Computation of Interest and Fees. Interest on LIBOR Loans and all fees shall be calculated on the basis of a 360-day year based upon the actual number of days elapsed (or, in each case at the Bank's option, upon prior written notice from the Bank to the Borrower, on the basis of a 360-day year consisting of twelve 30-day months) and interest on Base Rate Loans and Term Loans shall be calculated on the basis of a 365/366-day year upon the actual number of days elapsed.

Section 2.12. The Term Loans. (a) *Generally*. On the Facility Maturity Date, so long as (i) no Default or Event of Default shall have occurred and be continuing, or would result therefrom, and (ii) the representations and warranties of the Borrower set forth in Article IV hereof are true and correct in all material respects as of such date, the Loans, if any, outstanding on such date shall be automatically converted to term loans (each a *"Term Loan"* and collectively the *"Term Loans"*), and the Term Loans shall be deemed extended on such date (such date, the *"Conversion Date"*), the proceeds of which shall be deemed to have repaid the Loans and the Borrower's obligations under the related Notes. Each Term Loan shall be evidenced by a Term Loan Note in form and substance satisfactory to the Bank, with respect to each applicable System and indicating whether such Term Loan is taxable or tax exempt, and the Bank's receipt of such Term Loan Note(s) shall be a condition precedent to extension of the Term Loan(s). Interest payable on each Term Loan will have the same tax treatment (either excludable from gross income for federal tax purposes or not) as the Loan deemed paid with the proceeds of such Term Loan. The Term Loans may be repaid in whole or in part on any Business Date upon prior written notice from the Borrower to the Bank.

(b) **Repayment**. The Term Loans shall be payable in equal (as nearly as possible) semi-annual installments on each April 1 and October 1 of each year beginning with the first such date that is at least 100 days after the date of extension of such Term Loan(s); *provided, however*, that, notwithstanding anything contained herein to the contrary, the entire outstanding principal amount of the Term Loans, plus accrued and unpaid interest thereon, shall be due and payable in full on the Term Loan Maturity Date.

# ARTICLE III CONDITIONS

Section 3.01. Effectiveness. This Agreement shall become effective on the date on which each of the following conditions shall have been satisfied (or waived in accordance with Section 8.04):

(a) receipt by the Bank of a counterpart hereof signed by each of the parties hereto;

(b) receipt by the Bank of duly executed Notes dated the Effective Date complying with the provisions of Section 2.03;

(c) receipt by the Bank of a certified copy of each instrument which composes the Resolutions (each as in effect on the Effective Date) and a certificate of an Executive Assistant of the Borrower, dated the Effective Date, certifying that each instrument which composes the Resolutions is in full force and effect on the Effective Date and that there has been no other amendment or supplement of, or modification to, any provision of any such instrument;

(d) receipt by the Bank of a certificate of an Authorized Officer of the Borrower, dated the Effective Date, certifying that (i) each of the Borrower's representations and warranties contained (or incorporated by reference) herein is true and

correct on and as of the Effective Date and (ii) no Default has occurred and is continuing, and such other matters as the Bank may reasonably request;

(e) receipt by the Bank of a certificate of an Executive Assistant of the Borrower, dated the Effective Date, certifying as to the authorization of the officers of the Borrower who are authorized to execute and deliver this Agreement and the Notes then being delivered;

(f) receipt by the Bank of a certified copy of the Investment Policy of the Borrower; and

(g) receipt by the Bank of all opinions, certificates and other documents it may reasonably request, including those relating to the existence of the Borrower, the corporate authority for and the validity of this Agreement and the Notes then being delivered, and any other matters relevant hereto or thereto, all in form and substance satisfactory to the Bank.

Section 3.02. Borrowings During the Revolving Credit Period. The obligation of the Bank to make a Loan on the occasion of any Borrowing on or prior to the Conversion Date is subject to the satisfaction of the following conditions:

(a) receipt by the Bank of a Notice of Borrowing as required by Section 2.02;

(b) the fact that, immediately after such Borrowing, (i) the aggregate outstanding principal amount of the Loans will not exceed the amount of the Commitment, (ii) the aggregate outstanding principal amount of the Taxable Loans will not exceed the amount of the Taxable Loan Commitment, (iii) the aggregate outstanding principal amount of the Tax Exempt Loans will not exceed the amount of the Tax Exempt Loans will not exceed the amount of the Tax Exempt Loan Commitment amount of the Tax Exempt Loans will not exceed the amount of the Tax Exempt Loan Commitment and (iv) the aggregate outstanding principal amount of the District Energy System Loans will not exceed the amount of the District Energy System Commitment;

(c) the fact that, immediately before and as a result of giving effect to such Borrowing, no Default or Event of Default (for the System to which the Loan relates, if applicable) shall have occurred and be continuing;

(d) the fact that the representations and warranties of the Borrower (and if such representations and warranties relate to a System, then only to the extent they relate to the particular System for which the Loan is to be made; *provided*, that in the case of SJRPP Loans and BPSS Loans, representations and warranties relating to the Electric System shall be taken into account and in the case of District Energy System Loans, representations and warranties of the Water and Sewer System shall be taken into account) contained in this Agreement (except the representations and warranties set forth in Section 4.04(c) and the second sentence of Section 4.11) shall be true on and as of the date of such Borrowing;

(e) In the case of any Tax Exempt Loan, receipt by the Bank and the Borrower of confirmation from Bond Counsel to the Borrower that the opinion delivered

pursuant to clause 3.04(a)(ii) hereof (the "Bond Counsel Opinion") has not been withdrawn; and

(f) In the case of any Tax Exempt Loan, receipt by the Bank of written confirmation from the Borrower that it is and has been in compliance with the Tax Certificate (as defined in the Bond Counsel Opinion).

Each Borrowing hereunder shall be deemed to be a representation and warranty by the Borrower on the date of such Borrowing as to the facts specified in clauses (b), (c), and (d) of this Section.

Section 3.03. Additional Conditions to Additional System Loans. Prior to the making of any Additional System Loans hereunder each of the following conditions shall have been satisfied (or waived in accordance with Section 8.04):

(a) Receipt by the Borrower of a certificate of the Bank consenting to the making of Loans hereunder for purposes of such Additional System and approving the security pledged therefor by the Additional System Supplemental Resolution;

(b) receipt by the Bank of duly executed Additional System Notes dated on or before the making of any Additional System Loan complying with the provisions of Section 2.03;

(c) receipt by the Bank of (i) an opinion of the Office of General Counsel of the City, attorney for the Borrower, substantially in the form of Exhibit C-1 hereto relating to the applicable Additional System Supplemental Resolution and Additional System Notes and covering such additional matters relating to the transactions contemplated hereby or by the Financing Documents as the Bank may reasonably request and (ii) an opinion of Nixon Peabody LLP, or such other firm serving as bond counsel for the Borrower, substantially in the form of Exhibit C-2 hereto relating to the applicable Additional System Supplemental Resolution and Additional System Notes and covering such additional matters relating to the transactions contemplated hereby or by the Financing Documents as the Bank may reasonably request;

(d) receipt by the Bank of a certified copy of the applicable Additional System Supplemental Resolution and a certificate of the Secretary of the Borrower, certifying that the Additional System Supplemental Resolution is in full force and effect on the date of any Additional System Loan and that there has been no other amendment or supplement of, or modification to, any provision of any such instrument, except as set forth therein;

(e) receipt by the Bank of a certificate of an Authorized Officer of the Borrower, dated the date of any Additional System Loan, certifying that (i) each of the Borrower's representations and warranties (and if such representations and warranties relate to a System, then only to the extent they relate to the particular System for which the Loan is to be made) contained (or incorporated by reference) herein is true and correct on and as of the date of such certificate and (ii) no Default has occurred and is continuing; and

(f) receipt by the Bank of all opinions, certificates and other documents it may reasonably request relating to the existence of the Borrower, the corporate authority for and the validity of this Agreement, the Additional System Resolution and the Additional System Notes then being delivered, and any other matters relevant hereto or thereto, all in form and substance satisfactory to the Bank.

The Bank shall promptly notify the Borrower of satisfaction of the conditions set forth in this Section 3.03, and such notice shall be conclusive and binding on both parties hereto.

Section 3.04. Availability Date. The Revolving Credit Period shall not begin until the following conditions shall have been satisfied (or waived in accordance with Section 8.04):

(a) receipt by the Bank of (i) an opinion of the Office of General Counsel of the City, attorney for the Borrower, substantially in the form of Exhibit C-1 hereto and covering such additional matters relating to the transactions contemplated hereby or by the Financing Documents as the Bank may reasonably request, and (ii) an opinion of Nixon Peabody LLP, Bond Counsel for the Borrower, substantially in the form of Exhibit C-2 hereto and covering such additional matters relating to the transactions contemplated hereby or by the Financing Documents as the Bank may reasonably request;

(b) receipt by the Bank of evidence satisfactory to it that the Revolving Credit Agreement dated as of September 9, 2013 between the Borrower and the Bank of Tokyo Mitsubishi UFJ, LTD., and the Revolving Credit Agreement dated as of September 9, 2013 between the Borrower and Union Bank, N.A. have each been terminated and all amounts payable under such Revolving Credit Agreements and Notes have been paid in full;

(c) receipt by the Bank of a certificate of an Authorized Officer, dated the Available Date, certifying that (i) the Borrower's existing revolving credit facilities have been terminated, (ii) the Note Resolution is effective on or before the Available Date and (iii) the Note Resolution is a valid and binding obligation of the Borrower in accordance with its respective terms; and

(d) satisfaction of all conditions in the Note Resolution required to be satisfied in order for this Agreement to constitute a Credit Agreement thereunder and for the Notes to constitute Revolving Credit Notes thereunder.

## **ARTICLE IV**

## **REPRESENTATIONS AND WARRANTIES**

The Borrower represents and warrants that:

Section 4.01. Organization, Powers, Etc. The Borrower is a body politic and corporate and an independent agency of the City duly organized and validly existing under and pursuant to the Act and the laws of the State of Florida, and has full power and authority under the Constitution and the laws of the State of Florida (including, without limitation, the Act) and all material governmental licenses, authorization, consents and approvals required to operate the Systems, to carry on its business related thereto as now conducted, to, upon the termination of the Borrower's existing revolving credit facilities, borrow under this Agreement and to issue the Notes under the Note Resolution and in accordance with this Agreement.

Section 4.02. Authorization: No Contravention. Each of the Resolutions has been duly adopted and is in full force and effect (except (i) in the case of the Electric System Resolution, for the amendments thereto made by Article III of the First Amending Resolution until such amendments become effective and which shall not become effective without, among other requirements, the written consent of the Bank, (ii) in the case of the Water and Sewer System Resolution, for the amendments thereto made by the Water and Sewer System Amendatory Resolution requiring bondholder consent, which amendments are not yet effective, and (iii) in the case of the Note Resolution, upon the termination of the Borrower's existing revolving credit facilities). The execution, delivery and performance by the Borrower of this Agreement (including, without limitation, the borrowing of Loans in an aggregate principal amount equal to the amount of the Commitment), the Notes and the Financing Documents are within the Borrower's powers, have been duly authorized by all necessary action, require no action by or in respect of, or filing with, any governmental body, agency or official (other than the Borrower) and do not contravene, or constitute a default under, any provision of applicable law (including, without limitation, the Act) or regulation or of the by-laws of the Borrower or of any agreement, judgment, injunction, order, decree or other instrument binding upon the Borrower or any of its assets or result in the creation or imposition of any Lien on any asset of the Borrower other than (a) in the case of the Electric System Resolution, the Lien on Net Revenues of the Electric System created by and under Section 11 of the Electric System Resolution, (b) in the case of the Electric System Subordinated Resolution, the Lien created by and under paragraph 1 of Section 5.01 of the Electric System Subordinated Resolution, (c) in the case of the Water and Sewer System Resolution, the Lien on Net Revenues of the Water and Sewer System created by and under Section 5.01 of the Water and Sewer System Resolution, (d) in the case of the Water and Sewer System Subordinated Resolution, the Lien created by and under Section 501 of the Water and Sewer System Subordinated Resolution, (e) in the case of the District Energy System Resolution, the Lien on Net Revenues of the District Energy System created by and under Section 501 of the District Energy System Resolution, (f) in the case of the St. Johns River Power Park System Second Revenue Bond Resolution, the Lien created by and under Section 501 of the St. Johns River Power Park System Second Revenue Bond Resolution, (g) in the case of the Bulk Power Supply System Revenue Bond Resolution, the Lien created by and under Section 501 of the Bulk Power Supply System Revenue Bond Resolution and (h) in the case of the Note Resolution, the Liens created by and under Sections 4.01, Section 6.01, 8.01, 10.01 and 12.01 of the Note Resolution.

Section 4.03. Binding Effect. This Agreement and each Financing Document constitute valid and binding agreements of the Borrower, provided, however that the Note Resolution will be effective upon the termination of the Borrower's existing revolving credit facilities and the Notes, when executed, authenticated and delivered in accordance with this Agreement and the Note Resolution, will constitute a valid and binding obligation of the Borrower upon the termination of the Borrower's existing revolving credit facilities.

Section 4.04. Financial Information. (a) The balance sheets of the Borrower as of September 30, 2014, and the related statements of operations, equity and cash flows for the fiscal year then ended, reported on by Ernst & Young LLP (or the Borrower's then independent certified public accountants), a copy of which has been delivered to the Bank, fairly present, in conformity with generally accepted accounting principles, the financial position of the Borrower as of such date and its results of operations and cash flows for such fiscal year.

(b) The unaudited balance sheets of the Borrower as of June 30, 2015, and the related unaudited statements of operations, equity and cash flows for the nine months then ended, a copy of which has been delivered to the Bank, fairly present, in conformity with generally accepted accounting principles applied on a basis consistent with the financial statements referred to in subsection (a) of this Section, the financial position of the Borrower as of such date and its results of operations for such nine-month period (subject to normal year-end adjustments).

(c) Since September 30, 2014, there has been no material adverse change in the business, financial position, results of operations or prospects of the Borrower as they relate to the Systems.

Section 4.05. Litigation. There is no action, suit or proceeding pending against, or to the knowledge of the Borrower threatened against or affecting, the Borrower, the Electric System, the Water and Sewer System, the District Energy System, SJRPP, BPSS or relating to any Financing Document, the Act, this Agreement or the Notes before any court or arbitrator or any governmental body, agency or official in which there is a reasonable possibility of an adverse decision which could materially adversely affect the business, financial position or results of operations of the Borrower, the Electric System, the Water and Sewer System, the District Energy System, SJRPP, BPSS, or which in any manner draws into question the validity or enforceability of this Agreement, the Notes, the Act or any Financing Document.

Section 4.06. Employee Benefit Plans, Etc. The Borrower does not maintain any "employee benefit plan" (within the meaning of Section 3(3) of ERISA) that is subject to Title I or Title IV of ERISA and has no obligation or liability under or in respect of any other "employee benefit plan" (within the meaning of Section 3(3) of ERISA) other than (i) the obligation to make annual contributions to (x) the City of Jacksonville 1937 Employees' Pension Fund (as amended from time to time, the "City Pension Fund") and (y) the St. Johns River Power Park System Employees' Retirement Plan (as amended from time to time, the "SJRPP Retirement Plan"), (ii) the obligation to allow or permit contributions to (x) the 457 Deferred Compensation Plan for Employees of JEA and St. Johns River Power Park System (as amended from time to time, the "JEA 457 Deferred Compensation Plan"), and (y) the 401(a) Defined Contribution Retirement Plan for employees of JEA and St. Johns River Power Park System (as amended from time to time, the "JEA 401(a) Defined Contribution Retirement Plan"), as required by Part VII, Chapter 112, Florida Statutes. The City Pension Fund and the SJRPP Retirement Plan are defined benefit "governmental plans" within the meaning of Section 3(32) of ERISA. The JEA 457 Deferred Compensation Plan and the JEA 401(a) Defined Contribution Retirement Plan are "eligible deferred compensation plans" within the meaning of Section 457 of the Internal Revenue Code.

Section 4.07. Status of Notes. (a) Payment of the principal of and interest on each Electric System Note is secured by a valid and enforceable Lien on the amounts described in Section 4.01 of the Note Resolution, which Lien is prior in right of payment as against the right of the City to appropriate Revenues (such term being used in this subsection (a) as defined in the Electric System Resolution) for the uses and purposes of the City and the rights of all other Persons having other claims of any kind in tort, contract or otherwise against the Borrower or the Revenues, except that such Lien (i) is junior and subordinate to the Lien on Revenues created by and under the Electric System Resolution in favor of the holders of the Electric System created by and under the Electric System Subordinated Resolution in favor of the holders of the Prior Lien Electric System Subordinated Bonds.

(b) Payment of the principal of and interest on each Water and Sewer System Note is secured by a valid and enforceable Lien on the amounts described in Section 6.01 of the Note Resolution, which Lien is prior in right of payment as against the right of the City to appropriate Revenues (such term being used in this subsection (b) as defined in the Water and Sewer System Resolution) for the uses and purposes of the City and the rights of all other Persons having other claims of any kind in tort, contract or otherwise against the Borrower or the Revenues, except that such Lien (i) is junior and subordinate to the Lien on Revenues created by and under the Water and Sewer System Resolution in favor of the holders of Water and Sewer System Bonds and (ii) is junior and subordinate to the Lien on amounts in the Subordinated Indebtedness Funds created by and under the Water and Sewer System Subordinated Resolution in favor of the holders of the Prior Lien Water and Sewer Subordinated Obligations.

(c) Payment of the principal of and interest on each District Energy System Note is secured by a valid and enforceable Lien on the amounts described in Section 8.01 of the Note Resolution, which Lien is prior in right of payment as against the right of the City to appropriate Revenues (such term being used in this subsection (c) as defined in the District Energy System Resolution) for the uses and purposes of the City and the rights of all other Persons having other claims of any kind in tort, contract or otherwise against the Borrower or the Revenues, except that such Lien (i) is junior and subordinate to the Lien on Revenues created by and under the District Energy System Resolution in favor of the holders of District Energy System Bonds and (ii) is junior and subordinate to any Lien on Revenues of the District Energy System hereafter created in favor of the holders of any Prior Lien District Energy System Subordinated Obligations.

(d) Payment of the principal of and interest on each SJRPP Note is secured by a valid and enforceable Lien on the amounts described in Section 10.01 of the Note Resolution, which Lien is prior in right of payment as against the right of the City to appropriate Revenues (such term being used in this subsection (d) as defined in the St. Johns River Power Park System Second Revenue Bond Resolution and as defined in the Electric System Resolution) for the uses and purposes of the City and the rights of all other Persons having other claims of any kind in tort, contract or otherwise against the Borrower or the Revenues, except that such Lien is junior and subordinate to the Lien on Revenues created by and under the St. Johns River Power Park System Second Revenue Bond Resolution in favor of the holders of SJRPP Bonds issued under the St. Johns River Power Park System Second Revenue Bond Resolution and (ii) is junior and subordinate to any Lien on Revenues of the St. Johns River Power Park System hereafter created in favor of the holders of any Prior Lien St. Johns River Power Park System Subordinated Obligations.

(e) Payment of the principal of and interest on each BPSS Note is secured by a valid and enforceable Lien on the amounts described in Section 12.01 of the Note Resolution, which Lien is prior in right of payment as against the right of the City to appropriate Revenues (such term being used in this subsection (e) as defined in the Bulk Power Supply System Revenue Bond Resolution and as defined in the Electric System Resolution) for the uses and purposes of the City and the rights of all other Persons having other claims of any kind in tort, contract or otherwise against the Borrower or the Revenues, except that such Lien (i) is junior and subordinate to the Lien on Revenues created by and under the Bulk Power Supply System Revenue Bond Resolution in favor of the holders of BPSS Bonds and (ii) is junior and subordinate to any Lien on Revenues (as defined in the Bulk Power Supply System Revenue Bond Resolution) hereafter created in favor of the holders of any Prior Lien BPSS Projects Subordinated Obligations.

(f) Interest on the Notes evidencing Tax Exempt Loans is not included in the gross income of the holders thereof for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code.

(g) Payment of the principal of and interest on the Additional System Notes will be secured by a valid and enforceable Lien on the amounts provided therefor in the Additional System Resolution, which Lien shall be prior in right of payment as against the right of the City to appropriate Additional System Net Revenues for the uses and purposes of the City and the rights of all other Persons having other claims of any kind in tort, contract or otherwise against the Borrower or the Revenues, except that such Lien is junior and subordinate to the Lien on such Additional System Revenues created by and under the Additional System Resolution in favor of the holders of Additional System Bonds.

(h) All amounts other than the principal of and interest on the Notes are payable from amounts remaining on deposit in the Revenue Fund (as defined in the Electric System Resolution) after the payments made by paragraphs (1) through (6) of Section 13B of the Electric System Resolution and amounts remaining on deposit in the Revenue Fund (as defined in the Water and Sewer System Resolution), and available for use by the Borrower in accordance with the provisions of subsection 2 of Section 507 of the Water and Sewer System Resolution.

Section 4.08. Taxes. The Borrower has timely filed or caused to be filed all tax returns, if any, which are required to be filed, has correctly stated the facts regarding any tax liability of the Borrower on such returns and has paid all taxes, if any, shown to be due and payable on said returns or on any assessments made against it or any of its property and all other taxes, fees and other charges imposed on it or any of its property by any governmental body, agency or authority (other than those the amount or validity of which are currently being contested in good faith by appropriate proceedings and with respect to which appropriate reserves in accordance with

GAAP have been provided on the books of the Borrower); and no tax liens have been filed and, to the best knowledge of the Borrower, no claims are being actively asserted with respect to any such taxes, fees or other charges (other than those the amount or validity of which are currently being contested in good faith by appropriate proceedings and with respect to which appropriate reserves in accordance with GAAP have been provided on the books of the Borrower).

Section 4.09. No Subsidiaries. As of the date hereof, the Borrower has no Subsidiaries.

Section 4.10. Not an Investment Company. The Borrower is not an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

Section 4.11. Full Disclosure. All information heretofore furnished (including pursuant to any representation or warranty) by the Borrower to the Bank for purposes of or in connection with this Agreement or any Financing Document or any transaction contemplated hereby or thereby is, and all such information hereafter furnished by the Borrower to the Bank will be, true and accurate in all material respects on the date as of which such information is stated or certified. The Borrower has disclosed to the Bank in writing any and all facts which materially and adversely affect or may (to the extent the Borrower can now reasonably foresee) materially and adversely affect the business, operations or financial condition of the Borrower, the Electric System, the Water and Sewer System, the District Energy System, SJRPP or BPSS or the ability of the Borrower to perform its obligations under this Agreement, the Notes or any Financing Document.

Section 4.12. No Default. The Borrower is not in default in the performance, observance or fulfillment of any of its material obligations, covenants or conditions contained in this Agreement or any Financing Document and no Default has occurred and is continuing hereunder.

Section 4.13. No Untrue Statements. The representations and warranties of the Borrower set forth herein are true and correct in all material respects on the Effective Date.

Section 4.14. No Sovereign Immunity. The defense of sovereign immunity is not available to the Borrower in any proceedings by the Bank to enforce any of the obligations of the Borrower under this Agreement or the Notes or any other Financing Document, except to the extent that any such proceeding seeks enforcement based on tort or similar claim and in such case such defense is available only to the extent set forth under Florida Statutes Section 768.28 or other similarly applicable provision of law, and, to the extent permitted by applicable law, the Borrower consents to the initiation of any such proceedings in any court of competent jurisdiction and agrees not to assert the defense of sovereign immunity in any such proceedings.

Section 4.15. Rate Increases. An increase by the Borrower of rates, fees, rentals or other charges for the use of the product, services and facilities of the Electric System, the Water and Sewer System, the District Energy System, SJRPP, or BPSS requires no action or approval by or in respect of any Governmental Authority (other than the Borrower).

Section 4.16. Insurance. With respect to each of the Systems, the Borrower currently maintains insurance of such type and in such amounts or in excess of such amounts as are

customarily carried by, and insures against such risks as are customarily insured against by, entities of like type, size and character of each such System.

Section 4.17. Pending Legislation and Decisions. There is no amendment, or to the knowledge of the Borrower, proposed amendment to the Constitution of the State or any State law, or any administrative interpretation of the Constitution of the State or any State law, or any legislation that has passed either house of the legislature of the State, or any published judicial decision interpreting any of the foregoing, the effect of which will materially adversely affect the issuance of the Notes, the security for the Notes or the Borrower's obligations hereunder or under any of the other Financing Documents, the creation, organization, or existence of the Borrower or the titles to office of any officers executing this Agreement or any other Financing Documents to which the Borrower is a party or the Borrower's ability to repay when due its obligations under this Agreement, the Notes, any obligations hereunder and the other Financing Documents.

Section 4.18. Federal Reserve Board Regulations. The Borrower will not use any part of the proceeds of the Notes or the funds advanced under any Loan and has not incurred any indebtedness to be reduced, retired or purchased by the Borrower out of such proceeds, for the purpose of purchasing or carrying any Margin Stock or violating Regulation T, U or X of the Board of Governors of the Federal Reserve System, and the Borrower does not own and will not acquire any such Margin Stock.

Section 4.19. Environmental Laws. Except as set forth in the Annual Disclosure Report under the captions "ELECTRIC UTILITY SYSTEM — ELECTRIC UTILITY FUNCTIONS *-Environmental Matters*", and in any publicly available offering document updating the Annual Disclosure Report or such other document provided to the Bank by JEA, each System is in compliance with all environmental laws, except in cases where such failure would not have a material adverse effect or where the Bank has provided its consent.

Section 4.20. Tax Exempt Status. The Borrower has not taken any action or omitted to take any action, and knows of no action taken or omitted to be taken by any other person or entity, which action, if taken or omitted, would cause interest on the Tax Exempt Loans (or related Notes) to be subject to federal income taxes.

Section 4.21. Compliance with Laws. The Borrower is in compliance with all applicable statutes, regulations and orders of, and all applicable restrictions imposed by, all governmental bodies, domestic or foreign, in respect of the operation of the Systems and its ownership interest in the Systems, except where noncompliance would not have a material adverse effect.

Section 4.22. Usury. The rate of interest on the Loans will not violate any State of Florida limitations applicable to the interest rate on such Loans as of the date of the Borrowing for such Loans.

#### Section 4.23. Anti Terrorism Representation.

(a) Neither the Borrower nor any of its Affiliates is in violation of any laws relating to terrorism or money laundering ("*Anti Terrorism Laws*"), including Executive

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Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the "*Executive Order*"), and the Patriot Act;

(b) Neither JEA nor any of its Affiliates is any of the following:

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

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

(iii) Reserved;

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

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

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

Section 4.24. Swap Contracts. There are no Swap Contracts secured by or payable from the net revenues of any System on parity with or senior to the Notes.

## ARTICLE V

#### **COVENANTS**

The Borrower agrees that, so long as the Bank has any Commitment hereunder or any amount payable under any Financing Document remains unpaid:

Section 5.01. Information. The Borrower will deliver to the Bank:

(a) as soon as available and in any event within 180 days after the end of each fiscal year of the Borrower, the balance sheets of the Borrower as of the end of such fiscal year and the related statements of operations, equity and cash flow for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by independent public accountants of nationally recognized standing

without qualification as to the scope of the audit performed or any material weakness noted in the Borrower's system of internal controls;

(b) as soon as available and in any event within 60 days after the end of each of the first three quarters of each fiscal year of the Borrower, the balance sheets of the Borrower as of the end of such quarter and the related statements of operations, equity and cash flow for such quarter and for the portion of the Borrower's fiscal year ended at the end of such quarter, setting forth in each case in comparative form the figures for the corresponding quarter and the corresponding portion of the Borrower's previous fiscal year, all of which, unless an Authorized Officer of the Borrower shall have certified to the Bank to the contrary, shall be deemed to have been certified by the Borrower (subject to normal year-end adjustments) as to fairness of presentation, in accordance with GAAP and consistency;

(c) simultaneously with the delivery of each set of financial statements referred to in clause (a) above, a statement of the firm of independent public accountants which reported on such statements whether anything has come to their attention to cause them to believe that any Default existed on the date of such statements; *provided*, *however*, that (i) such statement shall be required only to the extent that such accountants are permitted to deliver such statement under the then-current recommendations of the American Institute of Certified Public Accountants (the "AICPA") and (ii) such statements may be limited only to those matters permitted under the then-current recommendations of the AICPA;

(d) within five Business Days after any officer of the Borrower obtains knowledge of any Default, if such Default is then continuing, a certificate of an Authorized Officer of the Borrower setting forth the details thereof and the action which the Borrower is taking or proposes to take with respect thereto;

(e) as soon as available but in any event within 30 Business Days after approval of the City, copies of the Borrower's annual budget;

(f) within five Business Days after the transfer of funds by the Borrower to the City (other than transfers for which appropriations have been provided in the annual budget of the Borrower and reimbursements by the Borrower to the City for the costs of services provided by the City to the Borrower), a certificate of an Authorized Officer of the Borrower setting forth the amount transferred;

(g) promptly after the adoption thereof, copies of any material amendments of or supplements to the authorizing legislation of the Borrower and copies of any material amendments to the Financing Documents; and

(h) from time to time such additional information regarding the financial position or business of the Borrower and the Systems as the Bank may reasonably request.

All information provided by JEA under this Section shall be delivered to the Bank at the addresses specified in Section 8.01 and, in addition, shall be simultaneously sent by electronic

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mail to the following addresses:

to the extent the information required by this Section 5.01 has been filed with EMMA, JEA will be deemed to have complied with the provisions of this Section; provided, that JEA shall have provided e-mail notice to the Bank of such filing.

Section 5.02. Payment of Obligations. With respect to a particular System, the Borrower will pay and discharge, at or before maturity, all its material obligations and liabilities of such System in accordance with the terms thereof, including, without limitation, tax liabilities, except where the same may be contested in good faith by appropriate proceedings, and will maintain, in accordance with GAAP appropriate reserves for the accrual of any of the same; *provided*, that this covenant in being applied to (i) SJRPP or BPSS, shall also apply to the Electric System, and (ii) the District Energy System, shall also apply to the Water and Sewer System.

Section 5.03. Maintenance of Property. The Borrower will keep all property for the System to which the Loan relates useful and necessary in its business in good working order and condition, ordinary wear and tear excepted. For purposes of this section, in the case of (i) SJRPP or BPSS, the "System" shall be deemed to include the Electric System, and (ii) the District Energy System, the "System" shall be deemed to include the Water and Sewer System.

Section 5.04. Conduct of Business and Maintenance of Existence. The Borrower will continue to engage in business of the same general type as now conducted by the Borrower with respect to a particular System, and will preserve, renew and keep in full force and effect its existence and its rights, privileges and franchises necessary or desirable in the normal conduct of business with respect to such System; *provided*, that this covenant, in being applied to (i) SJRPP or BPSS, shall also apply to the Electric System and (ii) the District Energy System shall also apply to the Water and Sewer System.

Section 5.05. Compliance with Laws. The Borrower will comply in all material respects with all applicable laws, ordinances, rules, regulations, and requirements of governmental authorities (including, without limitation, environmental laws) for the System to which the Loan relates, except where the necessity of compliance therewith is contested in good faith by appropriate proceedings. For purposes of this section, in the case of (i) SJRPP or BPSS, the "System" shall be deemed to include the Electric System, and (ii) the District Energy System, the "System" shall be deemed to include the Water and Sewer System.

Section 5.06. Inspection of Property, Books and Records. The Borrower will keep proper books of record and account in which full, true and correct entries shall be made of all dealings and transactions in relation to its business and activities; and will permit representatives of the Bank at the Bank's expense to visit and inspect any of its properties, to examine and make abstracts from any of its books and records and to discuss its affairs, finances and accounts with its officers, employees and independent public accountants, all at such reasonable times and as often as may reasonably be desired. Section 5.07. Use of Proceeds. The proceeds of the Loans made under this Agreement will not be used, directly or indirectly, for the purpose, whether immediate, incidental or ultimate, of buying or carrying any Margin Stock.

Section 5.08. Incorporation of Covenants by Reference; No Amendments; Etc. (a) (i) The Borrower agrees that it will perform and observe each and every covenant and agreement required to be performed or observed by it in each of (A) the Electric System Resolution, the Electric System Subordinated Resolution and the Note Resolution (to the extent it relates to the Electric System), as to Electric System Loans, (B) the Water and Sewer System Resolution, the Water and Sewer System Subordinated Resolution and the Note Resolution (to the extent it relates to the Water and Sewer System), as to Water and Sewer System Loans, (C) the District Energy System Resolution, the Water and Sewer System Resolution, the Water and Sewer System Subordinated Resolution and the Note Resolution (to the extent it relates to the District Energy System and the Water and Sewer System), as to District Energy System Loans, (D) the St. Johns River Power Park System Second Revenue Bond Resolution, the Electric System Resolution, the Electric System Subordinated Resolution and the Note Resolution (to the extent it relates to SJRPP and the Electric System), as to SJRPP Loans, (E) the Bulk Power Supply System Revenue Bond Resolution, the Electric System Resolution, the Electric System Subordinated Resolution and the Note Resolution (to the extent it relates to BPSS and the Electric System), as to BPSS Loans and (F) the Note Resolution (as to any provision not directly related to the Electric System, the Water and Sewer System, the District Energy System, SJRPP or BPSS), (including, in each case, without limitation, all covenants and agreements in such Resolutions relating to (x) the incurrence by the Borrower of additional debt (it being understood that any condition to any such incurrence of additional debt shall, for purposes of this Agreement, be treated as if such condition were a covenant or agreement to be performed or observed by the Borrower hereunder) and (y) the setting of rates, fees, rentals or other charges for the use of the product, services and facilities of each System), which provisions, as well as related defined terms contained therein, (1) are hereby incorporated by reference herein (except, as the case may be, (i) in the case of the Electric System Resolution, for the amendments thereto made by Article III of the First Amending Resolution until such amendments becomes effective and which shall not become effective without the written consent of the Bank, (ii) in the case of the Water and Sewer System Resolution, for the amendments thereto made by the Water and Sewer System Amendatory Resolution requiring bondholder consent until any of such amendments become effective, and (iii) in the case of the Note Resolution, upon the termination of the Borrower's existing revolving credit facilities) with the same effect as if each and every such provision were set forth herein in its entirety (without giving effect to any expiration, amendment, supplement, modification or termination of any Resolution, or any amendment or supplement of the Note Resolution, as the case may be, or the redemption or defeasance of any bonds or other securities issued thereunder (except as permitted hereby)), and (2) shall survive and be binding upon the Borrower notwithstanding any termination or expiration of any such Resolution or the redemption or defeasance of any bonds or other securities issued thereunder.

> (ii) The Borrower further agrees, in the case of SJRPP Loans, that it will perform and observe each and every covenant and agreement required to be performed or observed by it in the St. Johns River Power Park System Bond Resolution relating to (x) the incurrence by the Borrower of additional debt thereunder (it being understood that any condition to any such incurrence of

additional debt shall, for purposes of this Agreement, be treated as if such condition were a covenant or agreement to be performed or observed by the Borrower hereunder) and (y) the setting of rates, fees, rentals or other charges for the use of the product, services and facilities of the Electric System, which provisions, as well as related defined terms contained therein, (1) are hereby incorporated by reference herein with the same effect as if each and every such provision were set forth herein in its entirety (without giving effect to any expiration, amendment, supplement, modification or termination of the St. Johns River Power Park System Bond Resolution or the redemption or defeasance of any bonds or other securities issued thereunder (except as permitted hereby)), and (2) shall survive and be binding upon the Borrower notwithstanding any termination or expiration of such Resolution or the redemption or defeasance of any bonds or other securities issued thereunder.

(iii) To the extent that any provision incorporated by reference herein pursuant to paragraph (i) or (ii) above permits the Borrower or the holders of one or more bonds or other securities issued under the applicable Resolution or one or more holders of a series of bonds or other securities issued under the applicable Resolution or any Person acting on behalf of any such holder or holders to waive compliance with such provision or requires that a document, opinion or other instrument or any event or condition relating to such incorporated provision be acceptable or satisfactory to the Borrower or the holders of one or more bonds or other securities issued under the applicable Resolution or one or more holders of a series of bonds or other securities issued under the applicable Resolution or any Person acting on behalf of any such holder or holders, for purposes of this Agreement, such provision shall be complied with unless it is waived in writing by the Bank and such document, opinion or other instrument shall be acceptable or satisfactory only if it is acceptable or satisfactory to the Bank. No amendment or supplement to or termination or expiration of such covenants and agreements or defined terms made pursuant to any such Resolution shall be effective to amend, supplement or terminate such covenants and agreements and defined terms as incorporated by reference herein without the consent of the Bank; provided, however, that no such consent shall be required in connection with the effectiveness of the amendments to the Water and Sewer System Resolution made by the Water and Sewer System Amendatory Resolution, which amendments have not yet become effective as of the Effective Date.

(b) Without limiting the generality of the foregoing, the Borrower will not amend, modify, waive or terminate, or consent to any amendment to or modification, waiver or termination of, any provision of any of the Financing Documents which would in any respect adversely affect the rights, remedies, security or interests of the Bank under this Agreement or the Notes or the other Financing Documents; *provided*, that the foregoing shall not prohibit the effectiveness of the amendments to the Water and Sewer System Resolution made by the Water and Sewer System Amendatory Resolution, which amendments have not become effective as of the Effective Date.

(c) From and after the date of satisfaction of the conditions to Borrowings for an Additional System set forth in Section 3.03 of this Agreement, the Borrower agrees that it will perform and observe each and every covenant and agreement required to be performed or observed by it in the Additional System Resolution (including, without limitation, all covenants and agreements in such Additional System Resolution relating to (i) the incurrence by the Borrower of additional debt (it being understood that any condition to any such incurrence of additional debt shall, for purposes of this Agreement, be treated as if such condition were a covenant or agreement to be performed or observed by the Borrower hereunder) and (ii) the setting of rates, fees, rentals or other charges for the use of the product, services and facilities of such Additional System), which provisions, as well as related defined terms contained therein, (1) are hereby incorporated by reference herein with the same effect as if each and every such provision were set forth herein in its entirety (without giving effect to any expiration, amendment, supplement or termination of the Additional System Resolution or any amendment or supplement of the Note Resolution, or the redemption or defeasance of any bonds or other securities issued thereunder (except as permitted hereby)), and (2) shall survive and be binding upon the Borrower notwithstanding any termination or expiration of any such Additional System Resolution or the redemption or defeasance of any bonds or other securities issued thereunder.

Section 5.09. ERISA Matters. The Borrower will not adopt, or incur any material obligation or liability under or in respect of, any employee benefit plan, within the meaning of Section 3(3) of ERISA, that is subject to Title I or Title IV of ERISA.

Section 5.10. Further Assurances. The Borrower shall, upon the reasonable request of the Bank, from time to time, execute and deliver and, if necessary, file, register and record such further financing statements, amendments, confirmation statements and other documents and instruments and take such further action as may be reasonably necessary to effectuate the provisions of this Agreement and the Financing Documents. Except to the extent it is exempt therefrom, the Borrower will pay or cause to be paid all filing, registration and recording fees incident to such filing, registration and recording, and all expenses incident to the preparation, execution and acknowledgment of such instruments of further assurance, and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Agreement, the Financing Documents and such instruments of further assurance. The Borrower, to the extent permitted by law, at all times shall defend, preserve and protect the pledge of the revenues and other security created under the Note Resolution, and other moneys, securities, rights and interests pledged under the Resolutions against all claims and demands of all persons whomsoever.

Section 5.11. Insurance. The Borrower will at all times maintain insurance with respect to its business operations and properties relating to the Systems against such risks, in such amounts, with such companies and with such deductibles as is customary for business operations and properties of like size, location and character to those of the Systems.

Section 5.12. No Sovereign Immunity. To the extent not prohibited by State of Florida law, the Borrower agrees to waive sovereign immunity from suit and liability for the purpose of adjudicating a claim to enforce its duties and obligations under this Agreement, the Notes and each other Financing Document, except to the extent that any such proceeding seeks enforcement based on tort or similar claim and in such case such defense is available only to the extent set forth under Florida Statutes Section 768.28 or other similarly applicable provision of law.

Section 5.13. Proceeds of Notes. The proceeds of the Notes will be used by the Borrower solely for the purposes described in the Note Resolution.

Section 5.14. Investment Policy. The Borrower shall provide the Bank with a copy of any amendment to its Investment Policy following the adoption of any such amendment.

Section 5.15. Certain Information. The Borrower shall not include in an offering document any information concerning the Bank that is not supplied in writing, or otherwise approved, by the Bank expressly for inclusion therein; *provided, however*, that the Borrower may disclose the existence of this Agreement and that the Bank is the Bank hereunder in any offering document or annual disclosure filing.

Section 5.16. Exempt Status. The Borrower shall not take any action or omit to take any action that, if taken or omitted, would adversely affect the excludability of interest on the Tax Exempt Loans from the gross income of the holders thereof for purposes of Federal income taxation under the Code.

(i) The Borrower covenants that it shall not take any action, or fail to take any action, or permit any action to be taken on its behalf or cause or permit any circumstance within its control to arise or continue, if any such action or inaction would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Tax Exempt Loans under Section 103 of the Internal Revenue Code and the applicable Treasury Regulations promulgated thereunder. Without limiting the generality of the foregoing, the Borrower covenants that it will comply with the instructions and requirements of the certificate to be executed and delivered on the date of issuance of the Notes evidencing the Tax Exempt Loans concerning certain matters pertaining to the use of proceeds of such Notes, including any and all exhibits attached thereto (the *"Tax Certificate"*). This covenant shall survive payment in full or defeasance of such Notes.

(ii) Notwithstanding any provisions of this Section, if the Borrower shall obtain an opinion of nationally recognized bond counsel that any specified action required under this Section is no longer required or that some further or different action is required to maintain the exclusion from gross income for federal income tax purposes of interest on the Tax Exempt Loans, the Borrower may conclusively rely on such opinion in complying with the requirements of this Section and of the Tax Certificate, and the covenants hereunder shall be deemed to be modified to that extent.

Section 5.17. Impairment of Bank's Rights. The Borrower shall not take or permit any action, under the Resolutions, the Notes, or the other Financing Documents otherwise inconsistent with or impairing the rights, remedies, security or interests of the Bank under this Agreement including, without limitation, the obligation of the Borrower to pay any obligations owed to the Bank.

Section 5.18. Swap Contracts. After the Effective Date, the Borrower will not enter into any Swap Contract (which shall not, for avoidance of doubt, include replacements or novations of Swap Contracts entered into prior to the Effective Date so long as the notional amount and expiration date thereof are not increased or extended, respectively) under which its obligations thereunder (including termination payments or settlement amounts) that are payable from Bulk Power Supply System Net Revenues, District Energy System Net Revenues, Electric System Net Revenues, St. John's River Power Park System Net Revenues, or Water and Sewer System Net Revenues, as applicable, are senior to or on parity with the payment of the Notes of the applicable System, in each case, without the prior written consent of the Bank.

Section 5.19. Maintenance of Approvals, Filings, Etc. At all times the Borrower will maintain in effect, renew and comply with all the terms and conditions of all consents, licenses, approvals and authorizations as may be necessary or appropriate under any applicable law or regulation for its execution, delivery and performance of this Agreement and the Financing Documents to which it is a party.

Section 5.20. Subsidiaries. The Borrower will provide written notice to the Bank promptly after the acquisition, formation or organization of any Subsidiary.

Section 5.21. Maintenance of Ratings. The Borrower shall at all times maintain ratings on at least one issuance of obligations under each of the applicable Resolutions (other than the Note Resolution) secured by a pledge of and lien on, as applicable, (i) Bulk Power Supply System Net Revenues, (ii) Electric System Net Revenues, (iii) St. Johns River Power Park System Net Revenues, and (iv) Water and Sewer System Net Revenues, by at least two of Moody's, S&P, and Fitch.

Section 5.22. Anti-Corruption Laws and Sanctions. The Borrower shall (a) ensure that no person who owns a controlling interest in or otherwise controls the Borrower is or shall be operating, organized or resident in a Sanctioned Country or listed on the Specially Designated Nationals and Blocked Person List or other similar lists provided to the Borrower by the Bank, in each case maintained by the Office of Foreign Assets Control ("*OFAC*"), the Department of the Treasury, or the Department of State, or included in any Executive Orders, that prohibits or limits the Bank from making any advance or extension of credit to the Borrower or from otherwise conducting business with the Borrower and (b) ensure that the proceeds of the Loans shall not be used to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto.

## **ARTICLE VI**

#### **EVENTS OF DEFAULT**

Section 6.01. Events of Default. If one or more of the following events ("Events of Default") shall have occurred and be continuing, it constitutes an Event of Default for the Loan or Loans or Term Loan or Term Loans related to the System which is affected by such event or

for all Loans or Term Loans in the case of Sections 6.01(g), 6.01(h), 6.01(i), 6.01(k), and 6.01(m):

(a) as to a System, the Borrower shall fail to pay when due any principal of or interest on any Loan, the related Note, or the related Term Loan, provided that with respect to payment of interest, such failure continues for a period of three (3) or more Business Days after the date when due;

(b) the Borrower shall fail to observe or perform any covenant contained (or incorporated by reference) in Sections 5.04, 5.08 (but subject to any grace periods contained in the covenants that are incorporated herein) or 5.12 hereof;

(c) as to a System *(provided,* that in the case of (i) SJRPP and BPSS, also including the Electric System, and (ii) the District Energy System, also including the Water and Sewer System), the Borrower shall fail to observe or perform any covenant or agreement contained in this Agreement (other than those covered by clause (a) or (b) above) or in any Financing Document relating to such System and, in the case of (i) SJRPP and BPSS, also including the Electric System and (ii) the District Energy System, also including the Water and Sewer System (other than those covered by clause (b) above) for 30 days after written notice thereof has been given to the Borrower by the Bank;

(d) (i) as to a System and, in the case of (A) SJRPP and BPSS, also including the Electric System, and (B) the District Energy System, also including the Water and Sewer System, to the extent it relates to one or more Systems and not all Systems, or (ii) as to all Systems, to the extent it relates to all Systems: any representation, warranty, certification or statement made by the Borrower (or incorporated by reference) in this Agreement or any Financing Document (as to a System) or in any certificate, financial statement or other document delivered pursuant to this Agreement or any Financing Document (as to a System) shall prove to have been incorrect in any material respect when made (or deemed made);

(e) as to a System and, in the case of (i) SJRPP and BPSS, also including the Electric System, and (ii) the District Energy System, also including the Water and Sewer System, the Borrower shall fail to make any payment in respect of any Material Debt when due or within any applicable grace period;

(f) as to a System and, in the case of (i) SJRPP and BPSS, also including the Electric System, and (ii) the District Energy System, also including the Water and Sewer System, any event or condition shall occur which results in the acceleration of the maturity of any Material Debt or enables (or, with the giving of notice or lapse of time or both, would enable) the holder of such Debt or any Person acting on such holder's behalf to accelerate the maturity thereof;

(g) the Borrower shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any action to authorize any of the foregoing;

(h) an involuntary case or other proceeding shall be commenced against the Borrower seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property and such involuntary case or other proceeding shall remain undismissed and unstayed in a period of 60 days; or an order for relief shall be entered against the Borrower under the federal bankruptcy laws or applicable state law as now or hereafter in effect;

(i) as to a System, a judgment or order for the payment of money in excess of the applicable Threshold Amount, shall be rendered against the Borrower and such judgment or order shall continue unsatisfied and unstayed for a period of 60 days;

(j) any material provision of this Agreement or any other Financing Document as to a System (and for purposes of this clause (j), Financing Documents relating to (i) the Electric System shall also be deemed to relate to SJRPP and BPSS, and (ii) the Water and Sewer System shall also be deemed to relate to the District Energy System), relating to the payment of principal of or interest on any Loan, Note, Term Loan or Term Note or security for the Loan, Note, Term Loan or Term Note, shall at any time cease to be valid and binding on the Borrower, or shall be declared to be null and void as a result of a final non-appealable judgment by a court of competent jurisdiction or by any Governmental Authority having jurisdiction, or the validity or enforceability thereof shall be contested by the Borrower;

(k) there shall occur a termination, winding up, liquidation or dissolution of the Borrower or the consolidation or merger of the Borrower with or into any Person;

(1) a moratorium, debt restructuring, debt adjustment or comparable restriction shall have been declared or announced (whether or not in writing) by any Governmental Authority having jurisdiction to do so with respect to any Debt of the Borrower as to any System (and for purposes of this clause (1) the Debt of the Borrower relating to (i) the Electric System shall also be deemed to relate to SJRPP and BPSS, and (ii) the Water and Sewer System shall also be deemed to relate to the District Energy System);

(m) the Borrower shall fail to pay, for a period of three (3) Business Days after the date on which the same shall have been due and the Bank shall have made demand therefor, any fees or any other amount payable hereunder;

(n) as to a System, each of Moody's, S&P and Fitch (in each case only if then providing such a rating) shall, with respect to any obligations issued under the applicable Resolution for such System (other than the Notes or any other obligation secured on a parity with or subordinate to the Notes) secured by the Bulk Power Supply System Net Revenues, the District Energy System Net Revenues, the Electric System Net Revenues, the St. John's River Power Park System Net Revenues or the Water and Sewer System Net Revenues, as applicable, have downgraded any of their ratings thereon below "Baa3," "BBB-" and "BBB-" (in each case or the equivalent), respectively, or any rating on such obligations by Moody's, S&P and Fitch (in each case only if then providing such a rating) shall have been withdrawn, suspended or is otherwise unavailable (except to the extent that the Borrower provides written evidence that the unavailability of such rating is for non-credit related reasons; the Bank agrees that acceptable written evidence that the unavailability of such rating is for non-credit related reasons includes, but is not limited to, a letter from the holder or underwriter of such obligation at the time such obligation was sold or transferred such that a rating for such obligation was not desired, or a letter from the applicable Rating Agency stating that the unavailability of such rating is for non-credit related reasons); or

(o) the City shall have repealed or otherwise terminated or shall have declared a repeal or other termination of its agreements under any of the applicable ordinances of the City relating to obligations issued under a Resolution for a System that it shall not exercise any present or future power, pursuant to law, to appropriate revenues of the applicable System for the uses and purposes of the City in such a manner as to impair or affect the covenants and obligations of the Borrower under the Resolutions and that any such power of the City shall be subordinated and made inferior to such covenants and obligations of the Borrower, and no action or proceeding shall have been commenced seeking to enjoin or set aside or otherwise prohibit such repeal or other termination within 30 days of such repeal or other termination or declaration;

then, and in every such event, the Bank (i) may, by notice to the Borrower terminate the Commitment as to the Loans for any relevant System, or terminate the Commitment as to the Loan or Loans for all Systems if the Event of Default does not relate to a particular System or Systems, and the Commitment to the relevant extent shall thereupon terminate, and (ii) may, by notice to the Borrower tender the Notes relating to the Loan or Loans or Term Notes for any relevant System, or relating to all the Loans or Term Notes for the Systems if the Event of Default does not relate to a particular System or Systems, for payment to the Borrower, and the Borrower shall thereupon be obligated to pay immediately the outstanding principal amount of such Notes or Term Loans, as applicable (together with accrued interest thereon), without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower: *provided* that in the case of any of the Events of Default specified in clause (g) or (h) or (I) above, without any notice to the Borrower or any other act by the Bank, the Commitment shall thereupon terminate and the Notes or Term Notes, as applicable, shall immediately be deemed to be tendered for payment to the Borrower and the Borrower shall be obligated to pay immediately the outstanding principal amount of the Notes or Term Notes, as applicable (together with accrued interest thereon) without presentment, demand, protest or notice of any kind, all of which are hereby waived by the Borrower. Promptly following the taking of any action or the occurrence of any event or condition referred to above, the Bank shall give notice

thereof to the Borrower, but the failure to give any such notice or any delay in giving any such notice shall not impair the validity or effect of any action or event or condition referred to above. Any Event of Default relating to (i) the Electric System shall be deemed an Event of Default for SJRPP and BPSS, and (ii) the Water and Sewer System shall be deemed an Event of Default for the District Energy System.

Section 6.02. Effect of Event of Default. The related Notes or Term Loans, as applicable, shall be immediately due and payable upon becoming subject to payment by the Borrower pursuant to Section 6.01 hereof. From and after the occurrence of an Event of Default, all amounts owing to the Bank hereunder, including, without limitation, amounts owing on any related Notes or Term Loans, as applicable, and all other obligations of the Borrower hereunder, shall bear interest at the Default Rate.

## **ARTICLE VII**

## **INCREASED COSTS AND TAXES**

## Section 7.01. Additional Costs.

(a) *Increased Costs Generally*. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, liquidity or similar requirement (including any compulsory loan requirement, insurance charge or other assessment) against assets of, deposits with or for the account of, or advances, loans or other credit extended or participated in by, the Bank or any Holder;

(ii) subject the Bank or any Holder to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clause (b) of the definition of Excluded Taxes and (C) Connection Income Taxes) of any kind whatsoever with respect to this Agreement, the related Notes, any Loan or Term Loan made by it or the related Notes, the Commitment, other obligations, or its deposits, reserves, other liabilities or capital attributable thereto, or change the basis of taxation of payments to the Bank or such Holder in respect thereof; or

(iii) impose on the Bank or any Holder any other condition, cost or expense (other than Taxes) affecting this Agreement or the related Notes or the Term Loans;

and the result of any of the foregoing shall be to increase the cost to the Bank or such Holder of making, continuing, converting or maintaining Loans or Term Loans (or of maintaining the Commitment) or to reduce the amount of any sum received or receivable by the Bank or such Holder hereunder, under the related Notes, under any Loan or under any Term Loan (whether of principal, interest or any other amount), then the Borrower shall pay to the Bank or such Holder, as the case may be, in accordance with Section 7.01(c), such additional amount or amounts as will compensate the Bank or such Holder, as the case may be, for such additional costs incurred or reduction suffered.

(b) **Capital or Liquidity Requirements**. If the Bank or any Holder determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on the Bank's or such Holder's capital or on the capital of the Bank's or such Holder's parent or holding company, if any, as a consequence of this Agreement, or of making Loans or Term Loans or maintaining the Commitment, to a level below that which the Bank or such Holder or the Bank's or such Holder's parent or holding company could have achieved but for such Change in Law (taking into consideration the Bank's or such Holder's policies and the policies of the Bank's or such Holder's parent or holding company with respect to capital or liquidity adequacy), then from time to time the Borrower shall pay to the Bank or such Holder, as the case may be, in accordance with Section 7.01(c), such additional amount or amounts as will compensate the Bank or such Holder or the Bank's or such Holder's parent or holding company for any such reduction suffered.

(c) *Certificates for Reimbursement.* A certificate of the Bank or any Holder setting forth the amount or amounts necessary to compensate the Bank or any such Holder or the Bank's or any such Holder's parent or holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay the Bank or any such Holder, as the case may be, the amount shown as due on any such certificate within ten (10) days after receipt thereof.

(d) **Delay in Requests.** Failure or delay on the part of the Bank or any such Holder to demand compensation pursuant to this Section shall not constitute a waiver of the Bank's or any such Holder's right to demand such compensation.

## Section 7.02. Taxes.

Payments Free of Taxes. Any and all payments to the Bank or other (a) Holder by or on account of any obligation of the Borrower hereunder or under the Notes shall be made free and clear of and without deduction or withholding for any Taxes, except as required by applicable law. If any Applicable Law (as determined in the good faith discretion of an applicable withholding agent) requires the deduction or withholding of any Tax from any such payment by a withholding agent, then the applicable withholding agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with Applicable Law and, if the Borrower shall be required by Applicable Law to deduct any Indemnified Taxes (including any Other Taxes) from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions or withholdings (including deductions applicable to additional sums payable under this Section) the Bank or such Holder receives an amount equal to the sum it would have received had no such deductions or withholdings been made, (ii) the Borrower shall make such deductions and (iii) the Borrower shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with Applicable Law.

(b) **Payment of Other Taxes by the Borrower**. Without limiting the provisions of paragraph (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with Applicable Law.

Indemnification by the Borrower. The Borrower shall, to the extent (c)permitted by applicable law, indemnify the Bank and the other Holders, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid by the Bank or such Holder and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by the Bank or such Holder shall be conclusive if reasonably determined. In addition, the Borrower shall, to the extent permitted by applicable law, indemnify the Bank and the other Holders, within ten (10) days after demand therefor, for any incremental Taxes that may become payable by the Bank as a result of any failure of the Borrower to pay any Taxes when due to the appropriate Governmental Authority or to deliver to the Bank and the other Holders, pursuant to clause (d), documentation evidencing the payment of Taxes.

(d) *Evidence of Payments*. As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Bank and such other Holder, as applicable, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Bank or such Holder, as applicable.

Treatment of Certain Refunds. If the Bank or any other Holder (e)determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified pursuant to this Section (including additional amounts paid by the Borrower pursuant to this Section), it shall pay to the applicable indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, under this Section with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Bank or such Holder, as applicable, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that the applicable indemnifying party, upon the request of the Bank or such Holder, as applicable, agrees to repay the amount paid over pursuant to this Section (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Bank or such Holder, as applicable, in the event the Bank or such Holder, as applicable, is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (e), in no event will the Bank or such Holder, as applicable, be required to pay any amount to an indemnifying party pursuant to this paragraph (e) the payment of which would place the Bank or such Holder, as applicable, in a less favorable net after-Tax position than the Bank or such Holder, as applicable, would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid. This paragraph shall not be

construed to require the Bank or such Holder, as applicable, to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the Borrower or any other Person.

(f) *Survival*. Without prejudice to the survival of any other agreement of the Borrower hereunder, the agreements and obligations of the Borrower contained in this Section shall survive the termination of this Agreement and the payment in full of the related Notes and the obligations of the Borrower thereunder and hereunder.

Section 7.03. Taxability. (a) In the event a Taxable Date occurs with respect to any Tax Exempt Loan, the Borrower hereby agrees to pay to the Bank on demand therefor (i) an amount equal to the difference between (A) the amount of interest that would have been paid to the Bank on any affected Tax Exempt Loans during the period for which interest on such Loans is includable in the gross income of the Bank if such Loans had borne interest at the Taxable Rate, beginning on the Taxable Date (the "*Taxable Period*"), and (B) the amount of interest actually paid to the Bank during the Taxable Period, and (ii) an amount equal to any interest, penalties or charges owed by the Bank as a result of interest on such Loans becoming includable in the gross income of the Bank in connection therewith; *provided* that the Bank reports to the Borrower the amounts of such interest, penalties, charges, attorneys' fees, court costs or other out-of-pocket costs within one year of the incurrence thereof. From and after the Taxable Date, such Loans shall bear interest at the Taxable Rate.

(b) Subject to the provisions of clauses (c) and (d) below, the Bank shall afford the Borrower the opportunity, at the Borrower's sole cost and expense, to contest (1) the validity of any amendment to the Code which causes the interest on such Loans to be includable in the gross income of the Bank or (2) any challenge to the validity of the tax exemption with respect to the interest on such Loans, including the right to direct the necessary litigation contesting such challenge (including administrative audit appeals).

(c) As a condition precedent to the exercise by the Borrower of its right to contest set forth in clause (b) above, the Borrower shall, on demand, immediately reimburse the Bank for any and all expenses (including reasonable attorneys' fees for services that may be required) that may be incurred by the Bank in connection with any such contest, and shall, on demand, immediately reimburse the Bank for any and all penalties or other charges payable by the Bank for failure to include such interest in its gross income; and

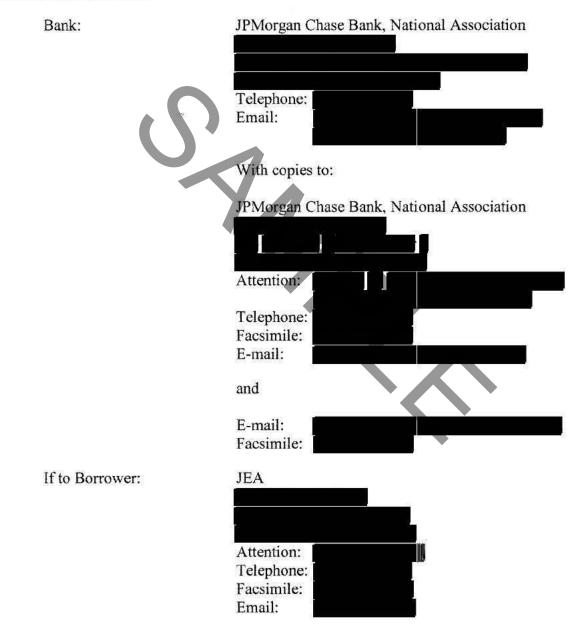
(d) The obligations of the Borrower under this Section 7.03 shall survive the termination of the Commitment and this Agreement.

## ARTICLE VIII

#### MISCELLANEOUS

Section 8.01. Notices. Except as otherwise set forth herein, all notices, requests, consents and other communications to either party hereunder shall be in writing (including bank

wire, facsimile transmission, electronic mail or similar writing) and shall be given to such party at its address or facsimile number set forth below or at such other address or facsimile number as such party may hereafter specify for the purpose by at least five Business Days' prior notice to the other party. Each such notice, request, consent or other communication shall be effective (i) if given by facsimile or email, when such facsimile is transmitted to the facsimile number or email address specified in this Section and the appropriate answerback or confirming reply is received, or (ii) if given by mail or any other means, when delivered at the address specified in this Section; *provided* that notices to the Bank under Article II or Article VII shall not be effective until received.



Section 8.02. No Waivers. No failure or delay by the Bank in exercising any right, power or privilege hereunder or under any other Financing Document shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise

<sup>54</sup> Exhibit A-062 thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Section 8.03. Expenses; Documentary Taxes; Indemnification. (a) The Borrower shall pay (i) all out-of-pocket expenses of the Bank, including fees and disbursements of counsel for the Bank, in connection with the preparation of this Agreement, any waiver or consent hereunder or any amendment hereof or any Default or alleged Default hereunder (*provided*, that the Borrower shall not be obligated to pay out-of-pocket expenses of the Bank or legal fees of counsel for the Bank in excess of \$40,000 plus all disbursements of such special counsels, in connection with the preparation and signing of this Agreement) and (ii) if an Event of Default occurs, all out-of-pocket expenses incurred by the Bank, including fees and disbursements of counsel, in connection with such Event of Default and collection, bankruptcy, insolvency and other enforcement proceedings resulting therefrom. The Borrower shall, to the extent permitted by law, indemnify the Bank against any transfer taxes, documentary taxes, assessments or charges made by any governmental authority by reason of the execution and delivery of this Agreement or the Notes.

(b) To the fullest extent permitted by applicable law, the Borrower agrees to indemnify the Bank and hold the Bank harmless from and against any and all liabilities, claims, losses, damages, costs and expenses of any kind, including, without limitation, the reasonable fees and disbursements of counsel, which may be incurred by the Bank in connection with the execution, delivery and performance of this Agreement and the other Financing Documents and any investigative, administrative or judicial proceeding (whether or not the Bank shall be designated a party thereto) relating to or arising out of this Agreement or any Financing Document or any actual or proposed use of proceeds of Loans hereunder; *provided* that the Bank shall not have the right to be indemnified hereunder for its own gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final and non-appealable judgment.

Section 8.04. Amendments and Waivers. Any provision of this Agreement or the Notes may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by the Borrower and the Bank.

Section 8.05. Successors and Assigns. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that neither party may assign or otherwise transfer any of its rights or obligations under this Agreement without the prior consent of the other party.

(b) The Bank may at any time grant to one or more banks or other institutions (each a "Participant") participating interests in its Commitment or any or all of its Loans or Term Loans. In the event of any such grant by the Bank of a participating interest to a Participant, whether or not upon notice to the Borrower, the Bank, shall remain responsible for the performance of its obligations hereunder, and the Borrower shall continue to deal solely and directly with the Bank in connection with the Bank's rights and obligations under this Agreement. Any agreement pursuant to which the Bank may grant such a participating interest shall provide that the Bank shall retain the sole right and responsibility to enforce the obligations of the Borrower hereunder including,

without limitation, the right to approve any amendment, modification or waiver of any provision of this Agreement. The Borrower agrees that each Participant shall, to the extent provided in its participation agreement, be entitled to the benefits of Section 2.05(g), Article VII, and Section 8.03 with respect to its participating interest; *provided* that no Participant shall be entitled to receive any greater amount pursuant to such provisions than the Bank would have been entitled to receive thereunder in respect of the participating interest granted by the Bank had it not granted such participating interest.

Section 8.06. Governing Law; Venue. (a) This Agreement and the Notes shall be governed by and construed in accordance with the laws of the State of New York; *provided*, *however*, that the obligations of the Borrower hereunder and thereunder shall be governed by and construed in accordance with the laws of the State of Florida.

(b) Non-exclusive jurisdiction and venue shall lie in any court sitting in the State of New York and the State of Florida.

Section 8.07. Counterparts; Integration. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement constitutes the entire agreement and understanding among the parties hereto and supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof.

Section 8.08. Waiver of Jury Trial. EACH OF THE BORROWER AND THE BANK HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE FINANCING DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

Section 8.09. Severability. The invalidity or unenforceability of anyone or more phrases, sentences, clauses, or Sections contained in this Agreement shall not affect the validity or enforceability of the remaining portions of this Agreement, or any part thereof.

Section 8.10. USA Patriot Act. The Bank hereby notifies the Borrower that, pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "*Patriot Act*"), it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow the Bank to identify the Borrower in accordance with the Patriot Act, and the Borrower hereby agrees to take any action reasonably necessary to enable the Bank to comply with the requirements of the Patriot Act and not otherwise prohibited by any law, rule, regulation or by any order, judgment or ruling by a court or Governmental Authority binding upon the Borrower.

Section 8.11. Assignment to Federal Reserve Bank. Notwithstanding the provisions of Section 8.05(a) the Bank may assign and pledge all or any portion of the obligations owing to it hereunder to any Federal Reserve Bank or the United States Treasury as collateral security pursuant to Regulation A of the Board of Governors of the Federal Reserve System and any

Operating Circular issued by such Federal Reserve Bank; *provided*, that any payment in respect of such assigned obligations made by the Borrower to the Bank in accordance with the terms of this Agreement shall satisfy the Borrower's obligations hereunder in respect of such assigned obligation to the extent of such payment. No such assignment shall release the Bank from its obligations hereunder.

Section 8.12. Continuing Obligations. This Agreement is a continuing obligation of each party and shall inure to the benefit of and be enforceable by each such party and its successors, transferees and permitted assigns, under all circumstances whatsoever, including, without limitation, the following circumstances:

(i) any lack of validity or enforceability of all or any of the Financing Documents;

(ii) any amendment or waiver of or any consent to or departure from the terms of all or any of the Financing Documents (other than this Agreement) provided such amendment, waiver or consent is completed in accordance with the terms of this Agreement;

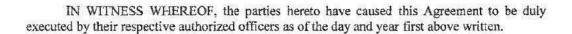
(iii) any exchange, release or non—perfection of any collateral or any release or amendment or waiver of or consent to departure from any guaranty and insurance documents;

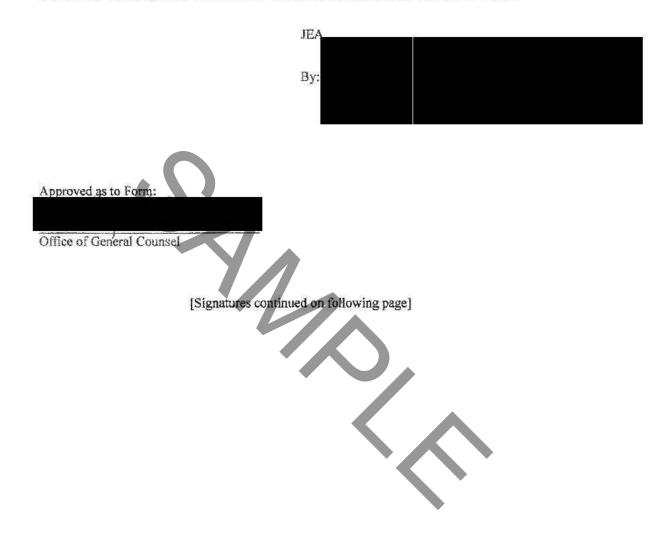
(iv) the existence of any claim, right of set—off or recoupment, defense, or other right which the Borrower may have at any time against the Borrower, the Bank (other than the defense of the payment to the Bank in accordance with the terms of this Agreement) or any other person or entity, whether in connection with this Agreement, the Financing Documents or any unrelated transactions;

(v) any certificate, notice or any other document presented other than by the Bank under this Agreement or any of the other Financing Documents proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect whatsoever; or

(vi) any other circumstances or happening whatsoever, whether or not similar to any of the foregoing.

## [SIGNATURE PAGES TO FOLLOW]





[SIGNATURE PAGE TO REVOLVING CREDIT AGREEMENT]

4825-3646-0843

# Exhibit A-066

[Signature page to Revolving Credit Agreement]



JPMORGAN CHASE BANK, NATIONAL

[SIGNATURE PAGE TO REVOLVING CREDIT AGREEMENT]



## **EXHIBIT A-1**

## FORM OF NOTICE OF BORROWING

## [Date]

## To: JPMorgan Chase Bank, National Association (the "Bank")

FROM: JEA

Re: Revolving Credit Agreement (the "*Credit Agreement*") dated as of December 17, 2015 between JEA and the Bank

We hereby give notice, pursuant to Section 2.02(a) of the Credit Agreement, of the following proposed Borrowing:

(a)	Date of Borrowing
(b)	Loan Principal Amount[\$xx,xxx,xxx]
(c)	Loan Maturity Date If not the Facility Maturity Date, the maturity date (which shall not be later than the Facility Maturity Date then in effect)
(d)	The Proceeds of such Loan are to be wire transferred to the following account:
(e)	The Loan constituting such Borrowing is to be [Electric System Loan] [Water and Sewer System Loan] [District Energy System Loan] [S IBBB Loop] [BBSS Loop] [Additional System Loop]
(f)	[SJRPP Loan] [BPSS Loan] [Additional System Loan] The Loan constituting such Borrowing is to be:
(g)	The Loan constituting such Borrowing is to be:
··· 1	

Each LIBOR Loan will automatically roll-over based upon the selected Interest Period through the Loan Maturity Date unless the Bank is otherwise notified in writing.

# Exhibit A-068

[(h) If the Loan constituting such Borrowing is to be a LIBOR Loan, the Interest Period is [one] [three] [six] months.]

Terms used herein have the meanings assigned to them in the Credit Agreement.

JE	A
Ву	Name:
	Title:
By	/: Name: Title:
0'	1 IIIC.
•	

#### EXHIBIT A-2

#### FORM OF NOTICE OF CONVERSION

#### [Date]

### To: JPMorgan Chase Bank, National Association (the "Bank")

FROM: JEA

Re: Revolving Credit Agreement (the "*Credit Agreement*") dated as of December 17, 2015 between JEA and the Bank

We hereby give notice, pursuant to Section 2.02(d) of the Credit Agreement, of the following proposed Conversion:

(a)	Date of Conversion
(b)	Loan Principal Amount
(c)	Loan Maturity Date If not the Facility Maturity Date, the maturity date (which shall not be later than the Facility Maturity Date then in effect [must be a Business Day during the Revolving Credit Period and, if the Loan is converting into a Base Rate Loan or to a different Interest Period, the last day of the Interest Period)
(c)	The Loan being converted is [a/an] [Electric System Loan]
	[Water and Sewer System Loan] [District Energy System Loan] [SJRPP Loan] [BPSS Loan] [Additional System Loan]
(d)	The Loan being converted is:
(e)	The Loan being converted is:

# selected Interest Period through the Loan Maturity Date unless the Bank is otherwise notified in writing.

Terms used herein have the meanings assigned to them in the Credit Agreement.

	JEA
	By:
S	By:Name:
- An	Title:

#### **EXHIBIT A-3**

#### FORM OF NOTICE OF REALLOCATION

#### [Date]

To: JPMorgan Chase Bank, National Association (the "Bank")

FROM: JEA

Re: Revolving Credit Agreement (the "Credit Agreement") dated as of December 17, 2015 between JEA and the Bank

We hereby give notice, pursuant to Section 2.01(c) of the Credit Agreement, of the following proposed change to the allocation of the portion of the Commitment which is available for Borrowings of Taxable Loans and the portion of the Commitment which is available for Borrowings of Tax Exempt Loans:

1.	Taxable Loan (	Commitment: \$	,	of which	[\$]	is
for the District	Energy System.					

2. Tax Exempt Loan Commitment: \$\_\_\_\_\_, of which [\$\_\_\_\_\_] is for the District Energy System.

Terms used herein have the meanings assigned to them in the Credit Agreement

JEA		$\langle \cdot \rangle$	
By:			
	Name:		
	Title:		

By:		
	Name:	
	Title:	

### EXHIBIT B

#### FORM OF NOTICE OF CHANGE OF BANK ACCOUNT

#### [Date]

To: JPMorgan Chase Bank, National Association (the "Bank")

FROM: JEA

Re: Revolving Credit Agreement (the "*Credit Agreement*") dated as of December 17, 2015 between JEA and the Bank

We hereby give notice, pursuant to Section 2.02(c) of the Credit Agreement, of a change to the account to which the proceeds of Borrowings are to be wire transferred. From and after the date hereof, the proceeds of all Borrowings should be wire transferred to the following account:

# [account information to be inserted]

Terms used herein have the meanings assigned to them in the Credit Agreement.

JEA	
By:	
-	Name:
	Title:
By:	
	Name:
	Title:

### **EXHIBIT C-1**

### OPINION OF THE OFFICE OF GENERAL COUNSEL OF THE CITY, ATTORNEY FOR THE BORROWER

#### [Available Date]

JPMorgan Chase Bank, National Association New York, New York

RE: Credit Agreement dated as of December 17, 2015 between JEA and JPMorgan Chase Bank, National Association

#### Ladies and Gentlemen:

We have acted as attorney for JEA (the "Borrower") in connection with the authorization, execution and delivery of the Revolving Credit Agreement (the "Credit Agreement") dated as of December 17, 2015, between the Borrower and JPMorgan Chase Bank, National Association. This opinion is being rendered to you at the request of the Borrower pursuant to Section 3.04(a) of the Credit Agreement.

Capitalized terms used herein and not defined herein shall have the meanings provided for such terms in the Credit Agreement or if not defined in the Credit Agreement shall have the meanings provided for such terms in the Note Resolution.

We have examined originals or copies, certified or otherwise identified to our satisfaction, of such documents, corporate records, certificates of public officials and other instruments and have conducted such other investigations of fact and law as we have deemed necessary or advisable for purposes of this opinion.

Based upon the foregoing, we are of the opinion that:

1. The Borrower is a body politic and corporate and an independent agency of the City of Jacksonville, Florida duly organized and validly existing under and pursuant to the Act and the laws of the State of Florida, and has full power and authority under the Constitution and the laws of the State of Florida (including, without limitation, the Act) required to operate the Electric System, the Water and Sewer System, the District Energy System, SJRPP and BPSS, to carry on its business related thereto as now conducted, to borrow under the Credit Agreement and to issue the Notes under the Note Resolution and in accordance with the Credit Agreement.

2. Each of the Resolutions has been duly adopted and is in full force and effect (except (i) in the case of the Electric System Resolution, for the amendments thereto made by Article III of the First Amending Resolution until such amendments become effective and which shall not become effective without, among other requirements, the written consent of the Bank, and (ii) in the case of the Water and Sewer System Resolution, for the amendments thereto made

by the Water and Sewer System Amendatory Resolution requiring bondholder consent, which amendments are not yet effective).

3. The execution, delivery and performance by the Borrower of the Credit Agreement (including, without limitation, the borrowing of Loans in an aggregate principal amount equal to the amount of the Commitment), the Notes and each other Financing Document are within the Borrower's powers, have been duly authorized by all necessary action, require no action by or in respect of, or filing with, any governmental body, agency or official (other than the Borrower, which actions have been taken in each case on or prior to the date hereof) and do not contravene, or constitute a default under, any provision of applicable law (including, without limitation, the Act) or regulation or of the by-laws of the Borrower or of any agreement, judgment, injunction, order, decree or other instrument binding upon the Borrower or any of its assets.

4. The Credit Agreement and each other Financing Document (including the Notes) constitute valid and binding agreements of the Borrower.

5. There is no action, suit or proceeding pending against, or to the best of our knowledge threatened against or affecting, the Borrower or the Electric System, the Water and Sewer System, the District Energy System, SJRPP, BPSS or relating to any Financing Document, or the Act, before any court or arbitrator or any governmental body, agency or official in which there is a reasonable possibility of an adverse decision which would materially adversely affect the financial position of the Borrower, the Electric System, the Water and Sewer System, the District Energy System, SJRPP or BPSS (other than as disclosed in the footnotes to the financial statements of the Borrower) or which in any manner draws into question the validity or enforceability of the Credit Agreement, the Notes, the Act or any other Financing Document.

6. The defense of sovereign immunity is not available to the Borrower in any proceedings by the Bank to enforce payment of any of the obligations of the Borrower under the Credit Agreement or the Notes or any other Financing Document from the funds pledged for payment thereof, except to the extent that any such proceeding seeks enforcement based on tort or similar claim and in such case such defense is available only to the extent set forth under Florida Statutes Section 768.28, or other similarly applicable provision of law.

7. An increase by the Borrower of rates, fees, rentals or other charges for the use of the product, services and facilities of the Electric System, the Water and Sewer System, the District Energy System, SJRPP or BPSS requires no action or approval by or in respect of any governmental body, agency or official (other than the Borrower).

The opinion set forth in paragraph 4 above is subject to the effect of, and restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, debt adjustment, moratorium, reorganization or other similar laws affecting creditors' rights. Furthermore, we are not rendering any opinion as to the availability of the remedy of specific performance or other equitable relief.

We are admitted to the practice of law only in the State of Florida. Nothing herein shall be construed to be an opinion as to (a) the applicability or effect of laws of any jurisdiction other than the State of Florida or the United States of America, (b) the tax treatment of the Notes or the transactions contemplated by the Resolutions, (c) the requirements of federal or state securities laws, including federal or state registration or blue sky laws, or (d) the perfection and priority of any lien or security interest.

This opinion is limited to the matters expressly stated as such herein, and no opinion is implied or may be inferred beyond the matters expressly stated herein or omitted herefrom. The opinions expressed herein are as of the date hereof, and we assume no obligation to update or supplement such opinions to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur. This opinion letter is provided solely for your benefit in connection with the transaction described above and may not be relied upon by any other person or for any other purposes.

	Very truly yours,
0	OFFICE OF THE GENERAL COUNSEL
	Pur.
	By:
	Title:

#### EXHIBIT C-2

#### **OPINION OF BOND COUNSEL FOR THE BORROWER**

#### [Available Date]

JPMorgan Chase Bank, National Association New York, New York

Ladies and Gentlemen:

We have acted as Bond Counsel for JEA (the "Borrower"), an independent agency of the City of Jacksonville, Florida in connection with the authorization, execution and delivery of the Revolving Credit Agreement, dated as of December 17, 2015 (the "Credit Agreement"), between the Borrower and JPMorgan Chase Bank, National Association. This opinion is being rendered to you at the request of the Borrower pursuant to Section 3.04(a) of the Credit Agreement. Capitalized terms used herein and not defined herein shall have the meanings provided for such terms in the Credit Agreement or if not defined in the Credit Agreement shall have the meanings provided for such terms in the Note Resolution.

In such connection, we have reviewed the Financing Documents and the Tax Certificate executed and delivered by JEA on the date hereof (the *"Tax Certificate"*); an opinion of the Office of General Counsel of the City, attorney for the Borrower; certificates of the Borrower and others; and such other documents and matters to the extent we deemed necessary to render the opinions set forth herein.

The opinions expressed herein are based upon an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine, or to inform any person, whether any such actions are taken or omitted or events do occur or any other matters come to our attention after the date hereof. We have assumed the genuineness of all documents and signatures presented to us (whether as originals or as copies) and the due and legal execution and delivery thereof by, and validity against, any parties other than the Borrower. We have assumed, without undertaking to verify, the accuracy of the factual matters represented, warranted or certified in the documents, and of the legal conclusions contained in the opinions, referred to in the second paragraph hereof (except that we have not relied on any such legal conclusions that are to the same effect as the opinions set forth herein). Furthermore, we have assumed compliance with Section 5.16 in the Credit Agreement and with all covenants and agreements contained in the Tax Certificate, including (without limitation) covenants and agreements compliance with which is necessary to assure that future actions, omissions or events will not cause interest on the BPSS Note, Electric System Note, Water and Sewer System Note, District Energy System Note or SJRPP Note, in each case, which note evidences a Tax Exempt Loan (designated as Series TE-X) (collectively, the "Tax Exempt Notes") to be included in gross income for federal income tax purposes. The BPSS Note, Electric System Note, Water and Sewer System Note, District Energy System Note

or SJRPP Note, in each case, which note evidences a Taxable Loan (designated as Series T-X) are collectively referred to herein as the "Taxable Notes" and together with the Tax-Exempt Notes are referred to herein as the "Notes"). Under the Note Resolution and the Credit Agreement the Borrower may incur Loans from time to time (i) to finance working capital expenditures or to provide interim or short-term financing for capital projects or (ii) to refinance Loans for such purposes. We draw your attention to the fact that, in connection with all Borrowings related to the Tax Exempt Loans, the Borrower is required under the provisions of the Credit Agreement to obtain a confirmation that this opinion has not been withdrawn. You may rely upon the opinions set forth herein with respect to Tax Exempt Loans made prior to the time we advise you that the opinion has been withdrawn.

We call attention to the fact that the rights and obligations under the Credit Agreement, the Notes and the Note Resolution and their enforceability may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against bodies politic and corporate of the State of Florida. We express no opinion with respect to any indemnification, contribution, penalty, choice of law, choice of forum or waiver provisions contained in the foregoing documents.

Based on and subject to the foregoing, and in reliance thereon, as of the date hereof, we are of the following opinions:

1. The Borrower is a body politic and corporate and an independent agency of the City duly organized and validly existing under and pursuant to the Act and the laws of the State of Florida, and has full power and authority under the Constitution and the laws of the State of Florida (including, without limitation, the Act) to operate the Electric System, the Water and Sewer System, the District Energy System, SJRPP and BPSS to carry on its business related thereto as now conducted, to borrow under the Credit Agreement and to issue the Notes under the Note Resolution and in accordance with the Credit Agreement.

2. Each of the Resolutions has been duly adopted and is in full force and effect (except (i) in the case of the Electric System Resolution, for the amendments thereto made by Article III of the First Amending Resolution until such amendments become effective and which shall not become effective without, among other requirements, the written consent of the Bank and (ii) in the case of the Water and Sewer System Resolution, for the amendments thereto made by the Water and Sewer System Amendatory Resolution requiring bondholder consent, which amendments are not yet effective).

3. The execution, delivery and performance by the Borrower of the Credit Agreement (including, without limitation, the borrowing of Loans in an aggregate principal amount equal to the amount of the Commitment), the Notes and each other Financing Document are within the Borrower's powers, have been duly authorized by all necessary action, require no action by or in respect of, or filing with, any governmental body, agency or official (other than the Borrower, which actions have been taken in each case on or prior to the date hereof) and do not contravene, or constitute a default under, any provision of applicable law (including, without limitation, the Act) or regulation or of the by-laws of the Borrower or of the Financing

Documents or result in the creation or imposition of any Lien on any asset of the Borrower other than (a) in the case of the Electric System Resolution, the Lien on Net Revenues of the Electric System created by and under Section 11 of the Electric System Resolution, (b) in the case of the Electric System Subordinated Resolution, the Lien created by and under paragraph 1 of Section 5.01 of the Electric System Subordinated Resolution, (c) in the case of the Water and Sewer System Resolution, the Lien on Net Revenues of the Water and Sewer System created by and under Section 5.01 of the Water and Sewer System Resolution, (d) in the case of the Water and Sewer System Subordinated Resolution, the Lien created by and under Section 501 of the Water and Sewer System Subordinated Resolution, (e) in the case of the District Energy System Resolution, the Lien on Net Revenues of the District Energy System created by and under Section 501 of the District Energy System Resolution, (f) in the case of the St. Johns River Power Park System Second Revenue Bond Resolution, the Lien on Net Revenues of SJRPP created by and under Section 501 of the St. Johns River Power Park System Second Revenue Bond Resolution, (g) in the case of the Bulk Power Supply System Resolution, the Lien on Net Revenues of BPSS created by and under Section 501 of the Bulk Power Supply System Resolution and (h) in the case of the Note Resolution, the Liens created by and under Section 4.01, Section 6.01, Section 8.01, Section 10.01, and Section 12.01 of the Note Resolution.

4. The Credit Agreement and each of the Financing Documents constitute valid and binding agreements of the Borrower enforceable in accordance with their terms. No judicial validation of the Credit Agreement or the Notes or any Financing Document is necessary or required.

5. The Notes have been duly and validly authorized and issued by the Borrower in accordance with the Constitution and statutes of the State of Florida, and particularly the Act, and the Resolutions, and constitute the legal, valid and binding obligations of the Borrower as provided in the Note Resolution, enforceable in accordance with their terms and the terms of the Note Resolution, and are entitled to the benefits of the Act and the Note Resolution. Neither the Notes nor the interest thereon shall be or constitute general obligations or indebtedness of the City or the Borrower as "bonds" within the meaning of the Constitution of Florida, but shall be payable solely from and secured by the amounts and in the manner as provided in the Note Resolution. The Bank shall never have the right to compel the exercise of the ad valorem taxing power of the City or the Borrower, if any, or taxation in any form of any real property in the City to pay the Notes or interest thereon or be entitled to payment of such principal and interest from any other funds of the City or the Borrower except from the special funds in the manner provided in the Note Resolution.

6. Interest on the Notes evidencing Tax Exempt Loans is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986. Interest on the Notes evidencing Tax Exempt Loans is not a specific preference item for purposes of federal individual or corporate alternative minimum taxes, although we observe that such interest is included in adjusted current earnings in calculating federal corporate alternative minimum taxable income.

7. The Borrower is not an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

8. An increase by the Borrower of rates, fees, rentals or other charges for the use of the product, services and facilities of the Electric System, the Water and Sewer System, the District Energy System, the St. Johns River Power Park System or the Bulk Power Supply System requires no action or approval by or in respect of any governmental body, agency or official (other than the Borrower).

9. The only limitations under the law or regulations of the State of Florida applicable to the rate of interest on the Loans are the limitation set forth in Section 159.821, et seq., and Section 215.84 Florida Statutes, as amended, and the regulations promulgated thereunder; provided, however, that such limitation shall not apply if either the State Board of Administration authorizes the rates of interest payable on the Loans (without regard to any reference in the Credit Agreement to any maximum rate permitted under applicable law) or the Notes receives a rating by a nationally recognized rating service (as determined pursuant to rules adopted by the State Board of Administration) in any one of the three highest rating classifications (as determined pursuant to rules adopted by the State Board of Administration) of such rating service. To the extent the interest rate on the Loans is subject to the limitation on the average net interest cost rate set forth in Section 159.821, et seq., and Section 215.84 Florida Statutes, as amended, and the regulations promulgated thereunder, such average net interest cost rate shall be determined for each Borrowing at the time such Borrowing is made and, if the interest rate on the Loan included in such Borrowing does not exceed such average net interest cost rate determined at the time of such Borrowing, subsequent increases in such interest rate prior to the repayment of such Borrowing (so long as the basis, method or formula for computing such interest rate has not changed) will not cause such interest rate (as so increased) to violate such average net interest cost rate limitation.

10. The balance of Revenues remaining in the Electric System Revenue Fund after (i) the application of Revenues as provided in paragraphs (1) through (3) of Section 13B of the Electric System Resolution and (ii) the prior payment of all amounts due with respect to the Prior Lien Electric System Subordinated Bonds, shall be available for the payment of the Notes and any other Subordinated Bonds (as defined in the Electric System Resolution) heretofore or hereafter issued in accordance with the provisions of the Electric System Resolution.

11. Subject to subsection 3 of Section 510 of the Water and Sewer System Resolution, the balance of amount remaining in the Water and Sewer System Subordinated Indebtedness Fund after payment of the Prior Lien Water and Sewer System Subordinated Obligations shall be available for the payment of the Notes and any other Subordinated Indebtedness (as defined in the Water and Sewer System Resolution) heretofore or hereafter issued in accordance with the provisions of the Water and Sewer System Resolution as a parity therewith.

12. Subject to subsection 3 of Section 510 of the District Energy System Resolution, the balance of amount remaining in the District Energy System Subordinated Indebtedness Fund after payment of the Prior Lien District Energy System Subordinated Obligations shall be available for the payment of the Notes and any other Subordinated Indebtedness (as defined in the District Energy System Resolution) heretofore or hereafter issued in accordance with the provisions of the District Energy System Resolution as a parity therewith.

13. Subject to subsection 3 of Section 510 of the St. Johns River Power Park System Second Revenue Bond Resolution, the balance of amount remaining in the St. Johns River Power Park System Subordinated Indebtedness Fund after payment of the Prior Lien St. Johns River Power Park System Second Revenue Bond Subordinated Obligations shall be available for the payment of the Notes and any other Subordinated Indebtedness (as defined in the St. Johns River Power Park System Second Revenue Bond Resolution) heretofore or hereafter issued in accordance with the provisions of the St. Johns River Power Park Second Revenue Bond Resolution as a parity therewith.

14. Subject to subsection 3 of Section 510 of the Bulk Power Supply System Resolution, the balance of amount remaining in the Bulk Power Supply System Subordinated Indebtedness Fund after payment of the Prior Lien Bulk Power Supply System Subordinated Obligations shall be available for the payment of the Notes and any other Subordinated Indebtedness (as defined in the Bulk Power Supply System Resolution) heretofore or hereafter issued in accordance with the provisions of the Bulk Power Supply System Resolution as a parity therewith.

This letter is furnished by us as bond counsel. No attorney-client relationship has existed or exists between our firm and you in connection with the Notes or by virtue of this letter. We disclaim any obligation to update this letter. This letter is delivered to you as party to the Credit Agreement, is solely for your benefit as such and is not to be used, circulated, quoted or otherwise referred to or relied upon for any other purpose or by any other person. This letter is not intended to, and may not, be relied upon by any other party to whom it is not specifically addressed.

Very truly yours,

## EXHIBIT D

### FORM OF REQUEST FOR EXTENSION OF FACILITY MATURITY

## [DATE]

# JPMorgan Chase Bank, National Association Attention: Telephone: Facsimile: E-mail: With copies to: E-mail: E-mail:

Re: Revolving Credit Agreement dated December 17, 2015, between JEA (the "Borrower") and JPMorgan Chase Bank, National Association (the "Bank"), as the same may be amended or supplemented from time to time in accordance with its terms (the "Agreement," the terms defined therein being used herein as therein defined)

The Borrower hereby requests, pursuant to Section 2.01(b) of the Agreement, that the Facility Maturity Date as of the date hereof be extended by up to [\_\_\_\_\_].

Enclosed herewith are:

1. a reasonably detailed description of any and all Defaults and Events of Default that have occurred and are continuing; and

2. any other pertinent information previously requested by the Bank.

We hereby confirm that all representations and warranties of the Borrower as set forth in Article IV of the Agreement thereof are true and correct as though made on the date hereof and that no Default or Event of Default has occurred and is continuing on the date hereof except for the defaults referenced in paragraph 1 above.

The Bank is to notify the Borrower of its decision with respect to this request as provided in Section 2.01(b) of the Agreement. If the Bank fails to so notify the Borrower of its decision, the Bank shall be deemed to have rejected such request.

Very truly yours,

JEA

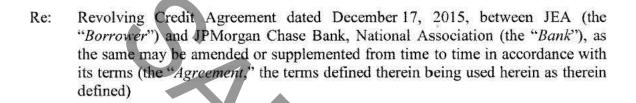
By:		
	Name:	
	Title: _	



# EXHIBIT E

### FORM OF APPROVAL OF EXTENSION OF TERMINATION DATE

# [DATE]



Dear Sir or Madam:

JEA

Pursuant to Section 2.01(b) of the aforementioned Agreement, we are pleased to inform you that JPMorgan Chase Bank, National Association has received approval to extend the Facility Maturity Date. The new Facility Maturity Date shall be [\_\_\_\_\_\_, \_\_] and will be effective on [\_\_\_\_\_\_, \_\_]. No further documentation is required to evidence the extension.

[Signatures continued on following page]

[Signature page to Form of Approval of Extension of Termination Date]

Please acknowledge receipt of this notice by signing and faxing such to me at (\_\_\_\_) \_\_\_\_.

Sincerely,

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

By
Name
Title
Date:
Received and Acknowledged:
JEA
By
Name
Title
Date:

#### EXECUTION COPY

### FIRST AMENDMENT TO REVOLVING CREDIT AGREEMENT

THIS FIRST AMENDMENT TO REVOLVING CREDIT AGREEMENT (this "First Amendment") dated as of May 24, 2018 (the "Amendment Effective Date"), is entered into by and between JEA (the "Borrower") and JPMORGAN CHASE BANK, NATIONAL ASSOCIATION (the "Bank").

#### WITNESSETH:

WHEREAS, the Borrower and the Bank have previously entered into the Revolving Credit Agreement dated as of December 17, 2015 (the "Original Agreement"), to provide a credit facility in a maximum principal amount of \$300,000,000; and

WHEREAS, the Borrower and the Bank wish to amend the provisions of the Original Agreement as herein provided.

NOW, THEREFORE, in consideration of the foregoing and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

# ARTICLE I

# INTENTION OF PARTIES, AGREEMENT PROVISIONS

The Borrower and the Bank have entered into this First Amendment pursuant to Section 8.04 of the Original Agreement to amend their rights and obligations set forth in the Original Agreement. The terms of the Original Agreement, as amended by this First Amendment (as so amended, the "Agreement"), shall govern the rights and obligations of the Borrower and the Bank in connection with the transactions contemplated by the Agreement to the extent provided therein. Capitalized terms used but not defined in this First Amendment shall have the respective meanings assigned thereto in the Original Agreement.

#### ARTICLE II

#### AMENDMENTS

Section 2.01.Amendments to Section 1.01. Section 1.01 of the Original Agreement is hereby amended as follows:

(a) Section 1.01 of the Original Agreement is hereby amended by deleting the definition of "Applicable Spread" in its entirety and in place thereof inserting the following:

"Applicable Spread" means a rate per annum associated with the Level corresponding to the applicable Ratings, as specified below.



As used above, "Rating" means the unenhanced long-term debt rating assigned by each of Moody's, S&P and Fitch to any senior lien Debt of the System to which the Loan being made relates issued or incurred under the applicable Resolution for such System and secured by any of the Bulk Power Supply System Net Revenues, District Energy System Net Revenues, Electric System Net Revenues, St. Johns River Power Park System Net Revenues, or Water and Sewer System Net Revenues. For purposes of determining the applicable Level corresponding to the Ratings for a System in the chart above: (a) if the Ratings for such System are on different Levels, the applicable Level shall be determined by reference to (i) if only two Ratings for such System are available. the lowest such Rating by any of Moody's, S&P and Fitch shall be used to determine the Level and (ii) if all three Ratings for such System are available, the lower of the two highest such Ratings shall be used to determine the Level (and if two Ratings are on the same Level, then such Level will be used) and (b) if only one of Moody's, S&P and Fitch has assigned a Rating for such System, then that Rating shall solely be used to determine the applicable Level. In the event that any rating with respect to any obligation secured by Bulk Power Supply System Net Revenues, District Energy System Net Revenues, Electric System Net Revenues, St. Johns River Power Park System Net Revenues, or Water and Sewer System Net Revenues, as applicable, is suspended, withdrawn or otherwise unavailable from any Rating Agency (except to the extent that the Borrower provides written evidence that the unavailability of such rating is for non-credit related reasons; the Bank agrees that acceptable written evidence that the unavailability of such rating is for non-credit related reasons includes, but is not limited to, a letter from the holder or underwriter of such obligation at the time such obligation was sold or transferred such that a rating for such obligation was not desired, or a letter from the applicable Rating Agency stating that the unavailability of such rating is for non-credit related reasons), and so long as such rating shall remain suspended, withdrawn or unavailable, the Applicable Spread shall immediately equal the rate set forth in Level 7 above, without notice to the Borrower (provided, however, that the Bank will use commercially reasonable efforts to provide notice thereof to the Borrower as promptly as possible thereafter). Upon the occurrence and at all times during the continuance of an

Exhibit<sup>2</sup>A-087

Event of Default, the Applicable Spread shall immediately equal the Applicable Spread otherwise in effect plus % per annum, without notice to the Borrower (provided, however, that the Bank will use commercially reasonable efforts to provide notice thereof to the Borrower as promptly as possible thereafter). Any change in the Applicable Spread resulting from a change in the Rating shall be and become effective as of and on the date of the announcement of the change in the Rating. References to ratings above are references to rating categories as presently determined by the Rating Agencies and in the event of adoption of any new or changed rating system, the ratings from the Rating Agency in question referred to above shall be deemed to refer to the rating category under the new rating system that most closely approximates the applicable rating category as currently in effect. The Borrower acknowledges that as of the Amendment Effective Date the Applicable Spread is that specified above for Level 1. The Applicable Spread for Tax Exempt Loans which are LIBOR Loans will be the Applicable Spread stated in the column captioned "Tax Exempt" and on the appropriate Level. The Applicable Spread for Taxable Loans which are LIBOR Loans will be the Applicable Spread in the column captioned "Taxable" on the appropriate Level.

(b) Section 1.01 of the Original Agreement is hereby amended by inserting the definition of "Amendment Effective Date" in its alphabetical order:

"Amendment Effective Date" has the meaning assigned to such term in the First Amendment to Revolving Credit Agreement, dated May 24, 2018, between the Borrower and the Bank, which amends this Agreement.

(c) Section 1.01 of the Original Agreement is hereby amended by deleting the definition of "Facility Maturity Date" in its entirety and in place thereof inserting the following:

"Facility Maturity Date" means May 24, 2021, or if such day is not a Business Day, the next preceding Business Day, as such date may be extended pursuant to the terms hereof.

(d) Section 1.01 of the Original Agreement is hereby amended by deleting the definition of "Factor" in its entirety and in place thereof inserting the following:

"Factor" means with respect to any LIBOR Loan that is a Taxable Loan, one hundred percent (100%) and, with respect to any LIBOR Loan that is a Tax Exempt Loan, seventy-nine percent (79%).

(e) Section 1.01 of the Original Agreement is hereby amended by deleting the definition of "Margin Rate Factor" in its entirety and in place thereof inserting the following:

"Margin Rate Factor" means the greater of (a) 1.0, and (b) the product of (i) one minus the Maximum Federal Corporate Tax Rate multiplied by (ii) 1.26582. The effective date of any change in the Margin Rate Factor shall be the effective date of the decrease or increase (as applicable) in the Maximum Federal Corporate Tax Rate resulting in such change.

# Exhibit<sup>3</sup>A-088

(f) Section 1.01 of the Original Agreement is hereby amended by deleting the definition of "Resolutions" in its entirety and in place thereof inserting the following:

"*Resolutions*" means the Electric System Resolutions, the Water and Sewer System Resolutions, the District Energy System Resolution, the St. Johns River Power Park System Second Revenue Bond Resolution, the Bulk Power Supply System Revenue Bond Resolution and the Note Resolution and, if applicable, any Additional System Resolutions.

(g) Section 1.01 of the Original Agreement is hereby amended by deleting the definition of "St. Johns River Power Park System Bond Resolution" in its entirety.

(h) Section 1.01 of the Original Agreement is hereby amended by deleting the definition of "Term Loan Maturity Date" in its entirety and in place thereof inserting the following:

*"Term Loan Maturity Date"* means, with respect to any Term Loan, the date that is three years after the making of the Term Loan hereunder, or such earlier date as the Term Loan becomes due and payable by the terms hereof.

Section 2.02. Amendment to Section 2.06(a). Section 2.06(a) of the Original Agreement is hereby amended and restated to read as follows:

(a) The Borrower agrees to pay to the Bank a nonrefundable fee (the "Commitment Fee") on the daily unused amount of the Commitment, accruing at a rate per annum (the "Commitment Fee Rate") associated with the Level corresponding to the Rating, as specified below:

		RATINGS	COMMITMENT FEE RATE	
LEVEL	MOODY'S	S&P	FITCH AT LEAST LESS THAN	89
2	RATING	RATING	RATING 1.00% DRAWN 1.00% DRAW	N
Level 1	Aa3 or above	AA- or above	AA- or above	
Level 2	A1	A+	A+	
Level 3	A2	A	A	
Level 4	A3	A-	A-	
Level 5	Baa1	BBB+	BBB+	
Level 6	Baa2	BBB	BBB	
Level 7	Baa3	BBB-	BBB-	

As used above, "Rating" means the unenhanced long-term debt rating assigned by each of Moody's, S&P and Fitch to any bonds or other obligations issued under the Electric System Resolution or the Water and Sewer System Resolution secured on a senior basis by any of the Electric System Net Revenues ("*Electric System Senior Rating*") or the Water and Sewer System Net Revenues ("*Water and Sewer System Senior* 

Exhibit<sup>4</sup>A-089

*Rating*"). For purposes of determining the applicable Level corresponding to the Ratings in the chart above: (a) if the Ratings are on different Levels, the applicable Level shall be determined by reference to (i) if only two Ratings are available, the lowest Rating by any of Moody's, S&P and Fitch shall be used to determine the Level and (ii) if all three Ratings are available, the lower of the two highest such Ratings shall be used to determine the Level (and if two Ratings are on the same Level, then such Level will be used), (b) if only one of Moody's, S&P and Fitch has assigned a Rating, then that Rating shall solely be used to determine the applicable Level and (c) if any of Moody's, S&P and Fitch has assigned an Electric System Senior Rating and a Water and Sewer System Senior Rating which are in the same column but on different Levels in the chart above. then the lower of such Ratings shall be used to determine the applicable Level for such column. (For example, if the Electric System Senior Ratings are "AA" by Fitch, "Aa2" by Moody's and "A+" by S&P and if the Water and Sewer System Senior Ratings are "AA" by Fitch, Aa2" by Moody's and "AAA" by S&P, then the Ratings used to determine the applicable Level will be "AA" by Fitch (Level 1), "Aa2" by Moody's (Level 1) and "A+" by S&P (Level 2) and the applicable Level to be used for determining the Commitment Fee Rate will be Level 1 because all three Ratings are available and the two highest Ratings are on the same Level.) In the event that any such senior rating with respect to any obligation secured by Electric System Net Revenues or Water and Sewer System Net Revenues, as applicable, is suspended, withdrawn or otherwise unavailable from any Rating Agency (except to the extent that the Borrower provides written evidence that the unavailability of such rating is for non-credit related reasons; the Bank agrees that acceptable written evidence that the unavailability of such rating is for non-credit related reasons includes, but is not limited to, a letter from the holder or underwriter of such obligation at the time such obligation was sold or transferred such that a rating for such obligation was not desired, or a letter from the applicable Rating Agency stating that the unavailability of such rating is for non-credit related reasons), and so long as such rating shall remain suspended, withdrawn or unavailable, the Commitment Fee Rate shall immediately equal the rate set forth in Level 7 above, without notice to the Borrower (provided, however, that the Bank will use commercially reasonable efforts to provide notice thereof to the Borrower as promptly as possible thereafter). Upon the occurrence and at all times during the continuance of an Event of Default, the Commitment Fee Rate shall immediately equal the Commitment Fee Rate otherwise in effect plus per annum, without notice to the Borrower (provided, *however*, that the Bank will use commercially reasonable efforts to provide notice thereof to the Borrower as promptly as possible thereafter). Any change in the Commitment Fee Rate resulting from a change in the Rating shall be and become effective as of and on the date of the announcement of the change in the Rating. References to ratings above are references to rating categories as presently determined by the Rating Agencies and in the event of adoption of any new or changed rating system, the ratings from the Rating Agency in question referred to above shall be deemed to refer to the rating category under the new rating system that most closely approximates the applicable rating category as currently in effect. The Borrower acknowledges that as of the Amendment Effective Date the Commitment Fee Rate is that specified above for Level 1. For any period of time during which the principal amount of all Loans outstanding is less than 1.00% of the Commitment, the Commitment Fee shall be calculated using the percentage



set forth in the column entitled "LESS THAN 1.00% DRAWN" on the appropriate Level. Otherwise the Commitment Fee shall be calculated using the percentages set forth in the column entitled "AT LEAST 1.00% DRAWN" on the appropriate Level. Notwithstanding the foregoing, for the period from and including the Effective Date to and including the third (3<sup>rd</sup>) Business Day thereafter, the Commitment Fee shall be calculated using the percentages set forth in the column entitled "AT LEAST 1.00% DRAWN" without regard to the principal amount of Loans outstanding.

The Commitment Fee shall be payable quarterly in arrears on the first Business Day of each October, January, April and July (commencing on January 4, 2016, for the period from and including the Effective Date to and including December 31, 2015), and on the Termination Date. The Commitment Fee shall be calculated on the basis of a 360-day year and actual days elapsed. The accrual period for each payment will be the first day in each calendar quarter through the last day in each calendar quarter or the Termination Date, as applicable.

Section 2.03. Amendment to Section 2.07. Section 2.07 of the Original Agreement is hereby amended by deleting all references to "Effective Date" in such Section and in place thereof inserting "Amendment Effective Date."

Section 2.04. Amendments to Section 4.04. Section 4.04 of the Original Agreement is hereby amended as follows:

(a) in Section 4.04(a), the reference to "September 30, 2014" is replaced with "September 30, 2017";

(b) in Section 4.04(b), the reference to "June 30, 2015" is replaced with "March 31, 2018" and the references to "nine months" and "nine-month" are replaced with "six months" and "six-month", respectively; and

(c) in Section 4.04(c), the reference to "September 30, 2014" is replaced with "September 30, 2017".

Section 2.05. Amendments to Section 5.08. Section 5.08 of the Original Agreement is hereby amended as follows:

(a) Section 5.08(a)(ii) is hereby deleted in its entirety and replaced with "[RESERVED]".

(b) in Section 5.08(a)(iii), the reference to "or (ii)" is hereby deleted in its entirety.

Section 2.06. References to Water and Sewer System Amendatory Resolution. The parties hereby agree that for all purposes of the Agreement, the amendments made by the Water and Sewer System Amendatory Resolution requiring bondholder consent have become effective.

Exhibit<sup>6</sup>A-091

#### **ARTICLE III**

#### FULL FORCE AND EFFECT

The Original Agreement is hereby amended to the extent provided in this First Amendment and, except as specifically provided herein, the Original Agreement shall remain in full force and effect in accordance with its terms.

#### ARTICLE IV

#### **GOVERNING LAW**

### THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS FIRST AMENDMENT SHALL BE GOVERNED AS PROVIDED IN SECTION 8.06 OF THE ORIGINAL AGREEMENT.

#### ARTICLE V

## HEADINGS

Section headings in this First Amendment are included herein for convenience of reference only and shall not have any effect for purposes of interpretation or construction of the terms of this First Amendment.

# ARTICLE VI

#### COUNTERPARTS

This First Amendment may be signed in any number of counterpart copies, but all such copies shall constitute one and the same instrument.

## ARTICLE VII

#### REPRESENTATIONS

Each party hereto hereby represents and warrants to the other that this First Amendment has been duly authorized and validly executed by it and that the Original Agreement as hereby amended constitutes its valid obligation enforceable in accordance with its terms. The representations and warranties contained in the Original Agreement, as amended by this First Amendment, are hereby made by each party hereto as of the Amendment Effective Date. For the avoidance of doubt, all references in such representations and warranties to defined terms shall be deemed to refer to such terms as defined in the Original Agreement, as amended by this First Amendment.

Exhibit<sup>7</sup>A-092

#### ARTICLE VIII

#### **CONDITIONS PRECEDENT**

Section 8.01. The parties hereto agree that this First Amendment shall become effective on the Effective Date but only upon the occurrence of each of the following conditions:

(a) Each of the Borrower and the Bank shall have duly executed and delivered this First Amendment, and an execution copy thereof shall have been delivered to the Bank;

(b) The Bank shall have received a certificate of the Borrower, dated the Amendment Effective Date, which certificate shall specify the name and title and include a specimen signature of the officer of the Borrower authorized to sign this First Amendment;

(c) Legal opinion of Nixon Peabody LLP, addressed to the Bank, dated the Amendment Effective Date, to the effect that this First Amendment has been duly executed and delivered by the Borrower and that the Agreement, as amended by this First Amendment, is the duly authorized, legal, valid and binding obligation of the Borrower;

(d) The Borrower shall have received a secretary's certificate of the Bank, dated the Amendment Effective Date, which certificate shall specify the name and title and include a specimen signature of the officer of the Bank authorized to sign this First Amendment;

(e) Legal opinion of Kutak Rock LLP, addressed to the Bank, dated the Amendment Effective Date, to the effect that this First Amendment has been duly executed and delivered by the Bank and that the Agreement, as amended by this First Amendment, is the duly authorized, legal, valid and binding obligation of the Bank, has been delivered; and

(f) All other legal matters pertaining to the execution and delivery of this First Amendment shall be satisfactory to the Bank (and the execution and delivery hereof by the Bank shall constitute conclusive evidence that all such legal matters have been completed to the satisfaction of the Bank).

The Borrower agrees to pay promptly upon receipt of an invoice, all reasonable fees and expenses due the Bank in connection with this First Amendment (including, without limitation, the fees and disbursements of counsel to the Bank).

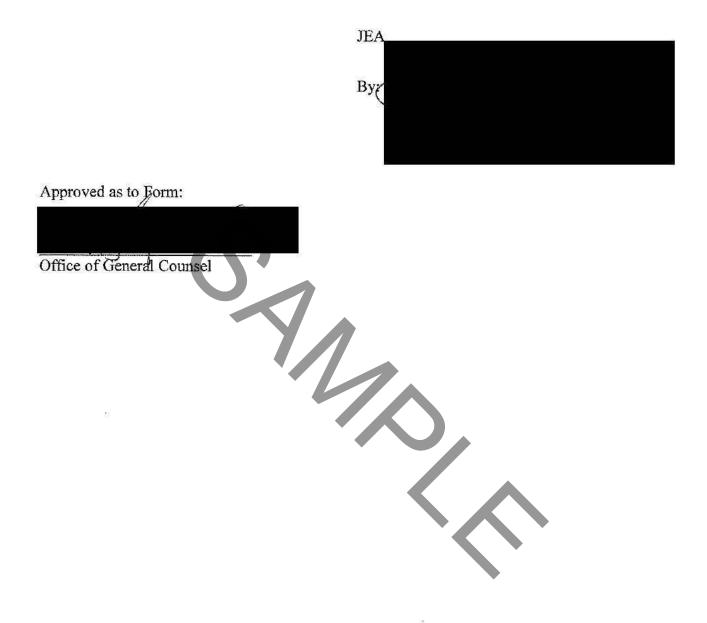
[Remainder of page intentionally left blank]

Exhibit<sup>8</sup>A-093

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to Revolving Credit Agreement to be duly executed and delivered as of the date and year first written above.

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION By 12 [Signatures continued on following page] 1 

[Signature page to First Amendment to Revolving Credit Agreement]



#### SECOND AMENDMENT TO REVOLVING CREDIT AGREEMENT

THIS SECOND AMENDMENT TO REVOLVING CREDIT AGREEMENT (this "Second Amendment") dated as of November 1, 2018 (the "Second Amendment Effective Date"), is entered into by and between JEA (the "Borrower") and JPMORGAN CHASE BANK, NATIONAL ASSOCIATION (the "Bank").

#### WITNESSETH:

WHEREAS, the Borrower and the Bank have previously entered into the Revolving Credit Agreement dated as of December 17, 2015, as amended by a First Amendment to Revolving Credit Agreement dated as of May 24, 2018 (as so amended, the "Original Agreement"), to provide a credit facility in a maximum principal amount of \$300,000,000; and

WHEREAS, the Borrower has requested, and the Bank has agreed, to increase the maximum principal amount of the credit facility available for Electric System Loans by \$200,000,000, for a total Commitment equal to \$500,000,000;

WHEREAS, the Borrower and the Bank wish to amend the provisions of the Original Agreement as herein provided.

NOW, THEREFORE, in consideration of the foregoing and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

#### ARTICLE I

# INTENTION OF PARTIES, AGREEMENT PROVISIONS

The Borrower and the Bank have entered into this Second Amendment pursuant to Section 8.04 of the Original Agreement to amend their rights and obligations set forth in the Original Agreement. The terms of the Original Agreement, as amended by this Second Amendment (as so amended, the "Agreement"), shall govern the rights and obligations of the Borrower and the Bank in connection with the transactions contemplated by the Agreement to the extent provided therein. Capitalized terms used but not defined in this Second Amendment shall have the respective meanings assigned thereto in the Original Agreement.

#### **ARTICLE II**

#### AMENDMENTS

Section 2.01. Amendments to Section 1.01. Section 1.01 of the Original Agreement is hereby amended as follows:

(a) Each of the following definitions is amended and restated to read as follows:

*"Commitment*" means the amount of \$500,000,000, as such amount may be reduced from time to time pursuant to Sections 2.07, 2.08 and 6.01 hereof.

"District Energy System Commitment" means \$30,000,000, as such amount may be reduced from time to time pursuant to Section 2.07, 2.08 and 6.01 hereof.

*"Taxable Loan Commitment"* means the portion of the Commitment which is available for Borrowings of Taxable Loans, initially, an amount equal to \$300,000,000, of which (i) up to \$25,000,000 is available for District Energy System Loans, (ii) up to \$200,000,000 is available for BPSS Loans, (iii) up to \$200,000,000 is available for SJRPP Loans, (iv) up to \$200,000,000 is available for Water and Sewer System Loans, (v) up to \$200,000,000 is available for Additional System Loans and (vi) up to \$300,000,000 is available for Electric System Loans, and in any case upon delivery to the Bank of a Notice of Reallocation and replacement Notes in accordance with Section 2.01(c), such other amount as may be requested by JEA as the new Taxable Loan Commitment.

*"Tax Exempt Loan Commitment"* means the portion of the Commitment which is available for Borrowings of Tax Exempt Loans, initially, an amount equal to \$200,000,000, of which (i) up to \$5,000,000 is available for District Energy System Loans, (ii) up to \$100,000,000 is available for BPSS Loans, (iii) up to \$100,000,000 is available for SJRPP Loans, (iv) up to \$100,000,000 is available for Additional System Loans and (vi) up to \$200,000,000 is available for Electric System Loans, and in any case upon delivery to the Bank of a Notice of Reallocation and replacement Notes in accordance with Section 2.01(c), such other amount as may be requested by JEA as the new Tax Exempt Loan Commitment.

(b) Each of the following definitions is added in its alphabetical order:

"Additional System Commitment" means \$300,000,000, as such amount may be reduced from time to time pursuant to Section 2.07, 2.08 and 6.01 hereof.

*"BPSS Commitment"* means \$300,000,000, as such amount may be reduced from time to time pursuant to Section 2.07, 2.08 and 6.01 hereof.

*"Electric System Commitment"* means \$500,000,000, as such amount may be reduced from time to time pursuant to Section 2.07, 2.08 and 6.01 hereof.

*"SJRPP Commitment"* means \$300,000,000, as such amount may be reduced from time to time pursuant to Section 2.07, 2.08 and 6.01 hereof.

*"Water and Sewer System Commitment"* means \$300,000,000, as such amount may be reduced from time to time pursuant to Section 2.07, 2.08 and 6.01 hereof.

Section 2.02. Amendment to Section 2.01(a). The first sentence of Section 2.01(a) of the Original Agreement is hereby amended and restated to read as follows:

During the Revolving Credit Period, the Bank agrees, on the terms and conditions set forth in this Agreement, to make loans to the Borrower pursuant to this Section from time to time in amounts such that:

(i) the aggregate principal amount of Loans by the Bank at any one time outstanding shall not exceed the amount of the Commitment,

(ii) the aggregate principal amount of Taxable Loans by the Bank at any time outstanding shall not exceed the Taxable Loan Commitment,

(iii) the aggregate principal amount of Tax Exempt Loans by the Bank at any time outstanding shall not exceed the Tax Exempt Loan Commitment, and

(iv) (A) the aggregate principal amount of District Energy System Loans by the Bank at any time outstanding shall not exceed the District Energy System Commitment,

(B) the aggregate principal amount of BPSS Loans by the Bank at any time outstanding shall not exceed the BPSS Commitment,

(C) the aggregate principal amount of Electric System Loans by the Bank at any time outstanding shall not exceed the Electric System Commitment,

(D) the aggregate principal amount of Water and Sewer System Loans by the Bank at any time outstanding shall not exceed the Water and Sewer System Commitment,

(E) the aggregate principal amount of SJRPP Loans by the Bank at any time outstanding shall not exceed the SJRPP Commitment, and

(F) the aggregate principal amount of Additional System Loans by the Bank at any time outstanding shall not exceed the Additional System Commitment.

Section 2.03. Amendment to Section 2.02(a). Clause (iii) of Section 2.02(a) of the Original Agreement is hereby amended and restated to read as follows:

(iii) whether such Borrowing is for (A) the Electric System (in which case the aggregate amount of such Borrowing shall not exceed the difference between (x) the amount of the Electric System Commitment and (y) the aggregate principal amount of

Electric System Loans then outstanding), (B) the Water and Sewer System (in which case the aggregate amount of such Borrowing shall not exceed the difference between (x) the amount of the Water and Sewer System Commitment and (y) the aggregate principal amount of Water and Sewer System Loans then outstanding), (C) the District Energy System (in which case the aggregate amount of such Borrowing shall not exceed the difference between (x) the amount of the District Energy System Commitment and (y) the aggregate principal amount of District Energy System Loans then outstanding), (D) SJRPP (in which case the aggregate amount of such Borrowing shall not exceed the difference between (x) the amount of the SJRPP Commitment and (y) the aggregate principal amount of SJRPP Loans then outstanding), (E) BPSS (in which case the aggregate amount of such Borrowing shall not exceed the difference between (x) the amount of the BPSS Commitment and (y) the aggregate principal amount of BPSS Loans then outstanding), or (F) an Additional System (in which case the aggregate amount of such Borrowing shall not exceed the difference between (x) the amount of the Additional System Commitment and (y) the aggregate principal amount of Additional System Loans then outstanding),

Section 2.04. Amendment to Section 2.03(a). Section 2.03(a) of the Original Agreement is hereby amended and restated to read as follows:

(a) The Taxable Loans and the Tax Exempt Loans of each System shall be evidenced by a single corresponding Note for each System (one for all Taxable Loans related to such System and one for all Tax Exempt Loans related to such System) payable to the Bank, with respect to the Taxable Loans, in an amount equal to the Taxable Loan Commitment (other than the Notes for the District Energy System, the Water and Sewer System, SJRPP or BPSS, each of which will be in an amount equal to such System's respective Taxable Loan Commitment) or, with respect to the Tax Exempt Loans, in an amount equal to the Tax Exempt Loan Commitment (other than the Notes for the District Energy System, the Water and Sewer System, SJRPP, or BPSS, each of which will be in an amount equal to such System's respective Tax Exempt Loan Commitment) or, if less, the aggregate unpaid principal amount of the Loans borrowed by such System and in the applicable form attached to the Note Resolution.

Section 2.05. Amendment to Section 3.02(b). Section 3.02(b) of the Original Agreement is hereby amended and restated to read as follows:

(b) the fact that, immediately after such Borrowing, (i) the aggregate outstanding principal amount of the Loans will not exceed the amount of the Commitment, (ii) the aggregate outstanding principal amount of the Taxable Loans will not exceed the amount of the Taxable Loan Commitment, (iii) the aggregate outstanding principal amount of the Tax Exempt Loans will not exceed the amount of the Tax Exempt Loans will not exceed the amount of the Tax Exempt Loan Commitment and (iv) the aggregate outstanding principal amount of (A) the District Energy System Loans will not exceed the amount of the BPSS Commitment, (B) the BPSS Loans will not exceed the amount of the Electric System Commitment, (D) the Water and Sewer System Loans will not exceed the amount of the amount of the Water and Sewer System Commitment, (E) the SJRPP Loans will not exceed the amount of the System Commitment, (E) the SJRPP Loans will not exceed the amount of the System Commitment, (E) the SJRPP Loans will not exceed the amount of the System Commitment, (E) the Syst

amount of the SJRPP Commitment and (F) the Additional System Loans will not exceed the amount of the Additional System Commitment;

Section 2.06. Amendment to Section 4.01. Section 4.01 of the Original Agreement is hereby amended and restated to read as follows:

Section 4.01. Organization, Powers, Etc. The Borrower is a body politic and corporate and an independent agency of the City duly organized and validly existing under and pursuant to the Act and the laws of the State of Florida, and has full power and authority under the Constitution and the laws of the State of Florida (including, without limitation, the Act) and all material governmental licenses, authorization, consents and approvals required to operate the Systems, to carry on its business related thereto as now conducted, to borrow under this Agreement and to issue the Notes under the Note Resolution and in accordance with this Agreement.

Section 2.07. Amendment to Section 4.02. Section 4.02 of the Original Agreement is hereby amended by amending and restating the first sentence therein to read as follows:

"Each of the Resolutions has been duly adopted and is in full force and effect (except in the case of the Electric System Resolution, for the amendments thereto made by Article III of the First Amending Resolution until such amendments become effective and which shall not become effective without, among other requirements, the written consent of the Bank)."

Section 2.08. Amendment to Section 4.03. Section 4.03 of the Original Agreement is hereby amended and restated to read as follows:

Section 4.03. Binding Effect. This Agreement and each Financing Document constitute valid and binding agreements of the Borrower, and the Notes, when executed, authenticated and delivered in accordance with this Agreement and the Note Resolution, will constitute a valid and binding obligation of the Borrower.

Section 2.09. Amendment to Section 4.04(b). Section 4.04(b) of the Original Agreement is hereby amended by replacing the reference to "March 31, 2018" with "June 30, 2018" and replacing the references to "six months" and "six-month" with "nine months" and "nine-month", respectively.

Section 2.10. Amendment to Section 4.13. Section 4.13 of the Original Agreement is hereby amended and restated to read as follows:

#### Section 4.13. [Reserved].

Section 2.11. Amendments to Section 5.01. Section 5.01 of the Original Agreement is hereby amended as follows: (i) the references to "balance sheets" in Section 5.01(a) and Section 5.01(b) are deleted and replaced with references to "statement of net position"; and (ii) the references to "statements of operations, equity and cash flow" in Section 5.01(a) and Section 5.01(b) are deleted and replaced with references to "statements of revenues, expenses, and changes in net position and statement of cash flows".

Section 2.12. References to SJRPP. JEA hereby represents that SJRPP has ceased commercial operations and was shut down on January 5, 2018. For all purposes hereunder and notwithstanding anything in the Agreement to the contrary, the parties agree that SJRPP is not, and will no longer be, in operation.

Section 2.13. Amendment to Exhibit A-3. Exhibit A-3 to the Original Agreement is hereby amended and replaced with Exhibit A-3 attached hereto. All references in the Agreement to Exhibit A-3 shall mean and refer to Exhibit A-3 attached hereto.

### Section 2.14. Acknowledgment as to Applicable Spread and Commitment Fee Rate.

(a) The Borrower acknowledges that, as of the Second Amendment Effective Date, (i) the Applicable Spread for any Electric System Loan is the Applicable Spread specified for Level 2 in the definition thereof, and the Applicable Spread for any Water and Sewer System Loan is the Applicable Spread specified for Level 1 in the definition thereof, and (ii) the Commitment Fee Rate is the Commitment Fee Rate specified for Level 2 in Section 2.06(a).

(b) For purposes of calculating the Commitment Fee for the period from the Second Amendment Effective Date to and including November 2, 2018, the Commitment Fee shall be calculated using the percentages set forth in the column entitled "AT LEAST 1.00% DRAWN" without regard to the principal amount of Loans outstanding.

Section 2.15. References to Note Resolution. The parties agree that all references to the Note Resolution in the Agreement shall mean and refer to Resolution No. 2018-04 adopted by the Borrower on October 16, 2018, which amended and restated Resolution No. 2015-06, and as it may be further amended, restated, supplemented or otherwise modified from time to time in accordance with the terms of the Note Resolution and the Agreement.

#### ARTICLE III

## FULL FORCE AND EFFECT

The Original Agreement is hereby amended to the extent provided in this Second Amendment and, except as specifically provided herein, the Original Agreement shall remain in full force and effect in accordance with its terms.

#### ARTICLE IV

#### **GOVERNING LAW**

THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS SECOND AMENDMENT SHALL BE GOVERNED AS PROVIDED IN SECTION 8.06 OF THE ORIGINAL AGREEMENT.

#### ARTICLE V

#### HEADINGS

Section headings in this Second Amendment are included herein for convenience of reference only and shall not have any effect for purposes of interpretation or construction of the terms of this Second Amendment.

#### ARTICLE VI

#### COUNTERPARTS

This Second Amendment may be signed in any number of counterpart copies, but all such copies shall constitute one and the same instrument.

#### ARTICLE VII

#### REPRESENTATIONS

Each party hereto hereby represents and warrants to the other that this Second Amendment has been duly authorized and validly executed by it and that the Original Agreement as hereby amended constitutes its valid obligation enforceable in accordance with its terms. The representations and warranties contained in the Original Agreement, as amended by this Second Amendment, are hereby made by each party hereto as of the Second Amendment Effective Date. For the avoidance of doubt, all references in such representations and warranties to defined terms shall be deemed to refer to such terms as defined in the Original Agreement, as amended by this Second Amendment.

#### ARTICLE VIII

#### CONDITIONS PRECEDENT

Section 8.01. The parties hereto agree that this Second Amendment shall become effective on the Second Amendment Effective Date but only upon the occurrence of each of the following conditions:

(a) Each of the Borrower and the Bank shall have duly executed and delivered this Second Amendment, and an execution copy thereof shall have been delivered to the Bank;

(b) The Bank shall have received a certified copy of the Note Resolution;

(c) The Bank shall have received duly executed Notes dated the Second Amendment Effective Date;

(d) The Bank shall have received a certificate of the Borrower, dated the Second Amendment Effective Date, which certificate shall specify the name and title and

include a specimen signature of the officer of the Borrower authorized to sign this Second Amendment;

(e) Legal opinion of Nixon Peabody LLP, addressed to the Bank, dated the Second Amendment Effective Date, to the effect that each of the Notes and this Second Amendment has been duly executed and delivered by the Borrower, the Note Resolution has been duly adopted by the Borrower, and that each of the Note Resolution, the Notes and the Agreement, as amended by this Second Amendment, is the duly authorized, legal, valid and binding obligation of the Borrower;

(f) The Borrower shall have received a secretary's certificate of the Bank, dated the Second Amendment Effective Date, which certificate shall specify the name and title and include a specimen signature of the officer of the Bank authorized to sign this Second Amendment;

(g) Legal opinion of Kutak Rock LLP, addressed to the Bank, dated the Second Amendment Effective Date, to the effect that this Second Amendment has been duly executed and delivered by the Bank and that the Agreement, as amended by this Second Amendment, is the duly authorized, legal, valid and binding obligation of the Bank, has been delivered; and

(h) All other legal matters pertaining to the execution and delivery of this Second Amendment shall be satisfactory to the Bank (and the execution and delivery hereof by the Bank shall constitute conclusive evidence that all such legal matters have been completed to the satisfaction of the Bank).

The Borrower agrees to pay promptly upon receipt of an invoice, all reasonable fees and expenses due the Bank in connection with this Second Amendment (including, without limitation, the fees and disbursements of counsel to the Bank).

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Second Amendment to Revolving Credit Agreement to be duly executed and delivered as of the date and year first written above.

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION By [Signatures continued on following page] Ο**Γ**ι.

4849-2235-5576



[Signature page to Second Amendment to Revolving Credit Agreement]

#### EXHIBIT A-3

#### FORM OF NOTICE OF REALLOCATION

#### [Date]

#### TO: JPMorgan Chase Bank, National Association (the "Bank")

FROM: JEA

Re: Revolving Credit Agreement (as amended, the "Credit Agreement") dated as of December 17, 2015 between JEA and the Bank

We hereby give notice, pursuant to Section 2.01(c) of the Credit Agreement, of the following proposed change to the allocation of the portion of the Commitment which is available for Borrowings of Taxable Loans and the portion of the Commitment which is available for Borrowings of Tax Exempt Loans:

Commitment: 1. Taxable Loan \$ of which up to ] is available for the District Energy System, of which up to [\$ ] is available for the Electric System, of which up to [\$ Γ\$ lis available for the Water and Sewer System, of which up to [\$ 1 is available for is available for BPSS, of which up to SJRPP, of which up to [\$ ] is available for the Additional System. [\$

2. Tax Exempt Loan Commitment: \$ of which up to ] is available for the District Energy System, of which up to [\$ ] is available for the Electric System, of which up to [\$ [\$ ] is available for the Water and Sewer System, of which up to [\$ ] is available for of which up to [\$ ] is available for BPSS, of which up to SJRPP, ] is available for the Additional System. [\$

Terms used herein have the meanings assigned to them in the Credit Agreement

JEA

·· ·· ·	
Name:	
Titlar	
Title:	

By:

•		
	Name:	
	Title:	

#### THIRD AMENDMENT TO REVOLVING CREDIT AGREEMENT

THIS THIRD AMENDMENT TO REVOLVING CREDIT AGREEMENT (this "Third Amendment") dated as of May 24, 2021 (the "Third Amendment Effective Date"), is entered into by and between JEA (the "Borrower") and JPMORGAN CHASE BANK, NATIONAL ASSOCIATION (the "Bank").

#### $\mathbf{WITNESSETH}:$

WHEREAS, the Borrower and the Bank have previously entered into the Revolving Credit Agreement dated as of December 17, 2015, as amended by a First Amendment to Revolving Credit Agreement dated as of May 24, 2018 and the Second Amendment to Revolving Line of Credit dated as of November 1, 2018, (as so amended, the "Original Agreement"), to provide a credit facility to the Borrower in a maximum principal amount of \$500,000,000; and

WHEREAS, the Borrower and the Bank wish to amend the provisions of the Original Agreement as herein provided.

NOW, THEREFORE, in consideration of the foregoing and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### ARTICLE I

#### **INTENTION OF PARTIES, AGREEMENT PROVISIONS**

The Borrower and the Bank have entered into this Third Amendment pursuant to Section 8.04 of the Original Agreement to amend their rights and obligations set forth in the Original Agreement. The terms of the Original Agreement, as amended by this Third Amendment (as so amended, the "Agreement"), shall govern the rights and obligations of the Borrower and the Bank in connection with the transactions contemplated by the Agreement to the extent provided therein. Capitalized terms used but not defined in this Third Amendment shall have the respective meanings assigned thereto in the Original Agreement.

#### **ARTICLE II**

#### AMENDMENTS

Section 2.01. Amendments to Section 1.01. Section 1.01 of the Original Agreement is hereby amended as follows:

(a) Each of the following definitions is amended and restated to read as follows:

"Applicable Spread" has the meaning to such term in the Fee Letter.

*"Facility Maturity Date"* means May 24, 2024, or if such day is not a Business Day, the next preceding Business Day, as such date may be extended pursuant to the terms hereof.

*"Factor"* means with respect to any LIBOR Loan that is a Taxable Loan, one hundred percent (100%) and, with respect to any LIBOR Loan that is a Tax Exempt Loan, eighty percent (80%).

*"Taxable Loan Commitment"* means the portion of the Commitment which is available for Borrowings of Taxable Loans, initially, an amount equal to \$300,000,000, of which (i) up to \$25,000,000 is available for District Energy System Loans, (ii) up to \$200,000,000 is available for BPSS Loans, (iii) up to \$200,000,000 is available for SJRPP Loans, (iv) up to \$300,000,000 is available for Water and Sewer System Loans, (v) up to \$200,000,000 is available for Additional System Loans and (vi) up to \$300,000,000 is available for Electric System Loans, and in any case upon delivery to the Bank of a Notice of Reallocation and replacement Notes in accordance with Section 2.01(c), such other amount as may be requested by JEA as the new Taxable Loan Commitment.

*"Tax Exempt Loan Commitment"* means the portion of the Commitment which is available for Borrowings of Tax Exempt Loans, initially, an amount equal to \$200,000,000, of which (i) up to \$5,000,000 is available for District Energy System Loans, (ii) up to \$100,000,000 is available for BPSS Loans, (iii) up to \$100,000,000 is available for SJRPP Loans, (iv) up to \$200,000,000 is available for Additional System Loans and (vi) up to \$200,000,000 is available for Electric System Loans, and in any case upon delivery to the Bank of a Notice of Reallocation and replacement Notes in accordance with Section 2.01(c), such other amount as may be requested by JEA as the new Tax Exempt Loan Commitment.

*"Water and Sewer System Commitment"* means \$500,000,000, as such amount may be reduced from time to time pursuant to Section 2.07, 2.08 and 6.01 hereof.

(b) The Definition of Determination Date is hereby deleted.

(c) The definition of "Financing Documents is hereby amended by adding, "and the Fee Letter" immediately after "this Agreement" in the first line of such definition.

(d) Each of the following definitions is added in its alphabetical order:

*"Anti-Corruption Laws"* means all laws, rules, and regulations of any jurisdiction applicable to the Borrower concerning or relating to bribery or corruption.

*"Fee Letter"* means that certain Fee Letter dated the Third Amendment Effective Date between the Borrower and the Bank.

*"Sanctioned Country"* means, at any time, a country, region or territory which is itself the subject or target of any Sanctions.

"Sanctioned Person" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or by the U.S. Department of State, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b).

"Sanctions" means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State.

"Third Amendment Effective Date" means May 24, 2021.

**Section 2.02.** Amendment to Article I. Article I to the Original Agreement is hereby amended by inserting a following Section 1.03 at the end of Article I.

Section 1.03 Interest Rates; LIBOR Notification. The interest rate on LIBOR Loans is determined by reference to LIBOR, which is derived from the London interbank offered rate. The London interbank offered rate is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. In July 2017, the U.K. Financial Conduct Authority announced that, after 2021 (which date has been extended for certain LIBOR tenors to June 30, 2023), it would no longer persuade or compel contributing banks to make rate submissions to the ICE Benchmark Administration (together with any successor to the ICE Benchmark Administrator, the "*IBA*") for purposes of the IBA setting the London interbank offered rate. As a result, it is possible that commencing in 2022 (and, in the case of some LIBOR tenors, July of 2023), the London interbank offered rate may no longer be deemed an appropriate reference rate upon which to determine the interest rate on LIBR Loans. In light of this eventuality, public and private sector industry

initiatives are currently underway to identify new or alternative reference rates to be used in place of the London interbank offered rate. Upon the occurrence of a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-in Election, Section 2.13 provides the mechanism for determining an alternative rate of interest. The Bank will promptly notify the Borrower, pursuant to Section 2.13, of any change to the reference rate upon which the interest rate on LIBOR Loans is based. However, the Bank does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to the London interbank offered rate or other rates in the definition of "LIBOR" or with respect to any alternative or successor rate thereto, or replacement rate thereof (including, without limitation, (i) any such alternative, successor or replacement rate implemented pursuant to Section 2.13, whether upon the occurrence of a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-in Election, and (ii) the implementation of any Benchmark Replacement Conforming Changes pursuant to Section 2.13), including without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate will be similar to, or produce the same value or economic equivalence of, LIBOR or have the same volume or liquidity as did the London interbank offered rate prior to its discontinuance or unavailability.

Section 2.03. Amendment to Section 2.05(d). Section 2.05(d) of the Original Agreement is hereby amended and restated to read as follows:

(d) The interest rate borne by the Loans is subject to adjustment pursuant to the provisions of Section 2.13.

Section 2.04. Amendment to Section 2.06. Section 2.06 of the Original Agreement is amended and restated in its entirety to read as follows:

Section 2.06. Fees. The Borrower agrees to pay to the Bank the fees at the times and in the amounts described in the Fee Letter, the terms of which are incorporated herein by this reference. In addition, the Borrower agrees to pay to the Bank within thirty (30) days after demand:

(a) all costs and expenses of the Bank in connection with the enforcement (whether by means of legal proceedings or otherwise) of any of its rights under this Agreement, the other Financing Documents and such other documents which may be delivered in connection therewith;

(b) the reasonable fees and out-of-pocket expenses for counsel or other reasonably required consultants to the Bank in connection with advising the Bank as to its rights and responsibilities under this Agreement and the other Financing Documents or in connection with Events of Default, potential Events of Default and responding to requests from the Borrower for approvals, consents and waivers; and (c) any amounts advanced by or on behalf of the Bank to the extent required to cure any Default, Event of Default or event of nonperformance hereunder or any Financing Document, together with interest at the Default Rate.

Section 2.05. Amended to Section 2.07. Section 2.07 of the Original Agreement is hereby amended by deleting paragraphs (b), (c), (d) and (e) of such Section.

**Section 2.06. Amendment to Article II.** Article II of the Original Agreement is hereby amended by inserting the following Section 2.13 at the end of Article II.

#### Section 2.13. Alternate Rate of Interest.

(a) Subject to clauses (b), (c), (d), (e), (f) and (g) of this Section 2.13, if prior to the commencement of any Interest Period for a LIBOR Loan:

(i) the Bank determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining LIBOR, for such Interest Period; <u>provided</u> that no Benchmark Transition Event shall have occurred at such time; or

 the Bank determines that LIBOR for such Interest Period will not adequately and fairly reflect the cost to the Bank of making or maintaining the LIBOR Loans for such Interest Period;

then the Bank shall give notice thereof to the Borrower by telephone, telecopy or electronic mail as promptly as practicable thereafter and, until the Bank notifies the Borrower that the circumstances giving rise to such notice no longer exist, (A) any Notice of Conversion that requests the conversion of any Loan to, or continuation of any Loan as, a LIBOR Loan shall be ineffective, and (B) if any Notice of Borrowing requests a LIBOR Loan, such Loan shall be made as a Base Rate Loan.

(b) Notwithstanding anything to the contrary herein or in any other Financing Document (and any Swap Contract between the Borrower and the Bank relating to any of the transactions described in the Agreement shall be deemed not to be a "Financing Document" for purposes of this Section 2.13), if a Benchmark Transition Event, Term SOFR Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause (1) or (2) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Financing Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Financing Document and (y) if a Benchmark Replacement is determined in

accordance with clause (3) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Financing Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Borrower without any amendment to, or further action or consent of any other party to, this Agreement or any other Financing Document.

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

(d) The Bank will promptly notify the Borrower of (i) any occurrence of a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes, (iv) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (f) below and (v) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Bank pursuant to this Section 2.13, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Financing Document, except, in each case, as expressly required pursuant to this Section 2.13.

Notwithstanding anything to the contrary herein or in any other (e) Financing Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including Term SOFR or LIBOR) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Bank in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then the Bank may modify the definition of "Interest Period" for any Benchmark settings at or after such time to remove such unavailable or nonrepresentative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a

Benchmark (including a Benchmark Replacement), then the Bank may modify the definition of "Interest Period" for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(f) Upon the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrower may revoke any Notice of Borrowing or Notice of Conversion with regard to LIBOR Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower will be deemed to have converted any such request into a request for a Borrowing of or conversion to Base Rate Loans.

(g) For purposes of this Section 2.13 the following definitions will have the following meanings:

"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, any tenor for such Benchmark or payment period for interest calculated with reference to such Benchmark, as applicable, that is or may be used for determining the length of an Interest Period pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of "Interest Period" pursuant to clause (f) of this Section 2.13.

*"Benchmark"* means, initially, LIBOR; provided that if a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date have occurred with respect to LIBOR or the then-current Benchmark, then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to clause (b) or clause (c) of this Section 2.13.

*"Benchmark Replacement"* means, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date:

(1) the sum of: (a) Term SOFR and (b) the related Benchmark Replacement Adjustment;

(2) the sum of: (a) Daily Simple SOFR and (b) the related Benchmark Replacement Adjustment;

(3) the sum of: (a) the alternate benchmark rate that has been selected by the Bank and the Borrower as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for dollar-denominated syndicated

credit facilities at such time and (b) the related Benchmark Replacement Adjustment;

provided that, in the case of clause (1), such Unadjusted Benchmark Replacement is displayed on a screen or other information service that publishes such rate from time to time as selected by the Bank in its reasonable discretion; provided further that, notwithstanding anything to the contrary in this Agreement or in any other Financing Document, upon the occurrence of a Term SOFR Transition Event, and the delivery of a Term SOFR Notice, on the applicable Benchmark Replacement Date the "Benchmark Replacement" shall revert to and shall be deemed to be the sum of (a) Term SOFR and (b) the related Benchmark Replacement Adjustment, as set forth in clause (1) of this definition (subject to the first proviso above).

If the Benchmark Replacement as determined pursuant to clause (1), (2) or (3) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Financing Documents.

*"Benchmark Replacement Adjustment"* means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement:

(1) for purposes of clauses (1) and (2) of the definition of "Benchmark Replacement," the first alternative set forth in the order below that can be determined by the Bank:

(a) the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that has been selected or recommended by the Relevant Governmental Body for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for the applicable Corresponding Tenor;

(b) the spread adjustment (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that would apply to the fallback rate for a derivative transaction referencing the ISDA Definitions to be effective upon an index cessation event with respect to such Benchmark for the applicable Corresponding Tenor; and

(2) for purposes of clause (3) of the definition of "Benchmark Replacement," the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Bank and the Borrower for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for dollar-denominated syndicated credit facilities;

provided that, in the case of clause (1) above, such adjustment is displayed on a screen or other information service that publishes such Benchmark Replacement Adjustment from time to time as selected by the Bank in its reasonable discretion.

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

*"Benchmark Replacement Date"* means the earliest to occur of the following events with respect to the then-current Benchmark:

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

(2) in the case of clause (3) of the definition of "Benchmark Transition Event," the date of the public statement or publication of information referenced therein; or

(3) in the case of a Term SOFR Transition Event, the date that is thirty (30) days after the date a Term SOFR Notice is provided to the Borrower pursuant to Section 2.13(c); or

(4) in the case of an Early Opt-in Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election is provided to the Borrower.

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

*"Benchmark Transition Event"* means the occurrence of one or more of the following events with respect to the then-current Benchmark:

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

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

(3) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are no longer representative. For the avoidance of doubt, a "Benchmark Transition Event" will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each thencurrent Available Tenor of such Benchmark (or the published component used in the calculation thereof).

*"Benchmark Unavailability Period"* means the period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clauses (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Financing Document in accordance with this Section 2.13 and (y) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Financing Document in accordance with this Section 2.13.

*"Corresponding Tenor"* with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.

"Daily Simple SOFR" means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Bank in accordance with the conventions for this rate selected or recommended by the Relevant Governmental Body for determining "Daily Simple SOFR" for business loans; provided, that if the Bank decides that any such convention is not administratively feasible for the Bank, then the Bank may establish another convention in its reasonable discretion.

*"Early Opt-in Election"* means, if the then-current Benchmark is LIBOR, the occurrence of:

(1) a notification by the Bank to (or the request by the Borrower to the Bank to notify) the Borrower that at least five currently outstanding dollardenominated syndicated credit facilities at such time contain (as a result of amendment or as originally executed) a SOFR-based rate (including SOFR, a term SOFR or any other rate based upon SOFR) as a benchmark rate (and such syndicated credit facilities are identified in such notice and are publicly available for review), and

(2) the joint election by the Bank and the Borrower to trigger a fallback from LIBOR and the provision by the Bank of written notice of such election to the Borrower.

*"Floor"* means the benchmark rate floor, if any, provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to LIBOR.

*"ISDA Definitions"* means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time by the International Swaps and Derivatives Association, Inc. or such successor thereto.

"NYFRB" means the Federal Reserve Bank of New York.

*"NYFRB's Website"* means the website of the NYFRB at http://www.newyorkfed.org, or any successor source.

*"Reference Time"* with respect to any setting of the then-current Benchmark means (1) if such Benchmark is LIBOR, 11:00 a.m. (London time) on the day that is two London banking days preceding the date of such setting, and (2) if such Benchmark is not LIBOR, the time determined by the Bank in its reasonable discretion.

*"Relevant Governmental Body"* means the Federal Reserve Board or the NYFRB, or a committee officially endorsed or convened by the Federal Reserve Board or the NYFRB, or any successor thereto.

"SOFR" means, with respect to any Business Day, a rate per annum equal to the secured overnight financing rate for such Business Day published by the SOFR Administrator on the SOFR Administrator's Website at approximately 8:00 a.m. (New York City time) on the immediately succeeding Business Day.

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

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

*"Term SOFR"* means, for the applicable Corresponding Tenor as of the applicable Reference Time, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

*"Term SOFR Notice"* means a notification by the Bank to the Lenders and the Borrower of the occurrence of a Term SOFR Transition Event.

*"Term SOFR Transition Event"* means the determination by the Bank that (a) Term SOFR has been recommended for use by the Relevant Governmental Body, (b) the administration of Term SOFR is administratively feasible for the Bank and (c) a Benchmark Transition Event has previously occurred resulting in a Benchmark Replacement in accordance with this Section 2.13 that is not Term SOFR. *"Unadjusted Benchmark Replacement"* means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

**Section 2.07. Amendment to Section 4.23.** Section 4.23 of the Original Agreement is hereby amended and restated to read as follows:

Section 4.23. Anti-Corruption Laws and Sanctions. The Borrower has implemented and maintains in effect policies and procedures designed to ensure compliance by the Borrower and its Board, members, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Borrower, its Board, members, officers and employees, and to the knowledge of the Borrower its agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of (i) the Borrower, its Board, members, officers or employees, or (ii) to the knowledge of the Borrower, any agent of the Borrower is a Sanctioned Person. To the knowledge of the Borrower, no Loan, use of proceeds or other transaction contemplated by this Agreement will violate any Anti-Corruption Law or applicable Sanctions.

Section 2.08. Amendment to Section 5.22. Section 5.22 of the Original Agreement is hereby amended and restated to read as follows:

Section 5.22. Anti-Corruption Laws and Sanctions. The Borrower shall (a) ensure that no person who owns a controlling interest in or otherwise controls the Borrower is or shall be operating, organized or resident in a Sanctioned Country or listed on the Specially Designated Nationals and Blocked Person List or other similar lists provided to the Borrower by the Bank, in each case maintained by the Office of Foreign Assets Control ("*OFAC*"), the Department of the Treasury, or the Department of State, or included in any Executive Orders, that prohibits or limits the Bank from making any advance or extension of credit to the Borrower or from otherwise conducting business with the Borrower and (b) ensure that the proceeds of the Loans shall not be used to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto or any Anti-Corruption Laws applicable to the Borrower or its property.

#### **ARTICLE III**

#### FULL FORCE AND EFFECT

The Original Agreement is hereby amended to the extent provided in this Third Amendment and, except as specifically provided herein, the Original Agreement shall remain in full force and effect in accordance with its terms.

#### **ARTICLE IV**

#### **GOVERNING LAW**

#### THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS THIRD AMENDMENT SHALL BE GOVERNED AS PROVIDED IN SECTION 8.06 OF THE ORIGINAL AGREEMENT.

#### **ARTICLE V**

#### **HEADINGS**

Section headings in this Third Amendment are included herein for convenience of reference only and shall not have any effect for purposes of interpretation or construction of the terms of this Third Amendment.



This Third Amendment may be signed in any number of counterpart copies, but all such copies shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Third Amendment by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Third Amendment.

**ARTICLE VII** REPRESENTATIONS

Each party hereto hereby represents and warrants to the other that this Third Amendment has been duly authorized and validly executed by it and that the Original Agreement as hereby amended constitutes its valid obligation enforceable in accordance with its terms. The representations and warranties contained in the Original Agreement, as amended by this Third Amendment, are hereby made by each party hereto as of the Third Amendment Effective Date. For the avoidance of doubt, all references in such representations and warranties to defined terms shall be deemed to refer to such terms as defined in the Original Agreement, as amended by this Third Amendment.

#### **ARTICLE VIII**

#### **CONDITIONS PRECEDENT**

**Section 8.01.** The parties hereto agree that this Third Amendment shall become effective on the Third Amendment Effective Date but only upon the occurrence of each of the following conditions:

(a) Each of the Borrower and the Bank shall have duly executed and delivered this Third Amendment, and an execution copy thereof shall have been delivered to the Bank;

(b) The Bank shall have received a certified copy of the Note Resolution;

(c) The Bank shall have received duly executed Notes reflecting the revised Taxable Loan Commitment for Water and Sewer System Loans and the Tax Exempt Loan Commitment for Water and Sewer System Loans dated the Third Amendment Effective Date;

(d) The Bank shall have received a certificate of the Borrower, dated the Third Amendment Effective Date, which certificate shall specify the name and title and include a specimen signature of the officer of the Borrower authorized to sign this Third Amendment;

(e) Legal opinion of Greenberg Traurig, P.A., addressed to the Bank, dated the Third Amendment Effective Date, to the effect that each of the Notes described in Section 8.01 (c) and this Third Amendment has been duly executed and delivered by the Borrower, the Note Resolution has been duly adopted by the Borrower, and that each of the Note Resolution, the Notes and the Agreement, as amended by this Third Amendment, is the duly authorized, legal, valid and binding obligation of the Borrower;

(f) The Borrower shall have received a secretary's certificate of the Bank, dated the Third Amendment Effective Date, which certificate shall specify the name and title and include a specimen signature of the officer of the Bank authorized to sign this Third Amendment;

(g) Legal opinion of Kutak Rock LLP, addressed to the Bank, dated the Third Amendment Effective Date, to the effect that this Third Amendment has been duly executed and delivered by the Bank and that the Agreement, as amended by this Third Amendment, is the duly authorized, legal, valid and binding obligation of the Bank, has been delivered; and

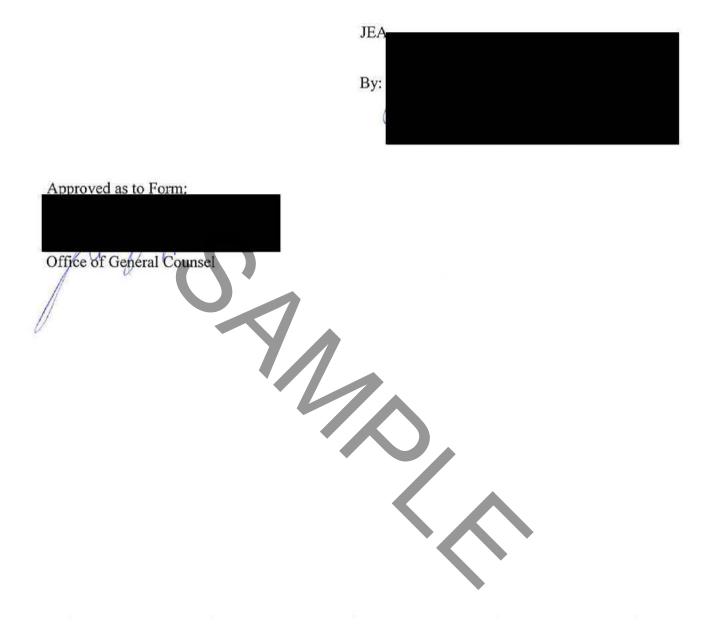
(h) All other legal matters pertaining to the execution and delivery of this Third Amendment shall be satisfactory to the Bank (and the execution and delivery hereof by the Bank shall constitute conclusive evidence that all such legal matters have been completed to the satisfaction of the Bank).

The Borrower agrees to pay promptly upon receipt of an invoice, all reasonable fees and expenses due the Bank in connection with this Third Amendment (including, without limitation, the fees and disbursements of counsel to the Bank).

IN WITNESS WHEREOF, the parties hereto have caused this Third Amendment to Revolving Credit Agreement to be duly executed and delivered as of the date and year first written above.

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION By [Signatures continued on following page] 

#### [Signature page to Third Amendment to Revolving Credit Agreement]



Chapman Draft May 15, 2025

#### **REVOLVING CREDIT AGREEMENT**

dated as of [\_\_\_\_\_], 2025,

between

#### **GUAM WATERWORKS AUTHORITY**

and

ROYAL BANK OF CANADA

Revolving Credit Agreement (GWA) (2) 4468062



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#### **REVOLVING CREDIT AGREEMENT**

This REVOLVING CREDIT AGREEMENT, dated as of [\_\_\_\_], 2025, between GUAM WATERWORKS AUTHORITY, a duly organized public corporation of the government of Guam (the *"Borrower"*), and ROYAL BANK OF CANADA, acting through a branch now located at 200 Vesey Street, New York, New York (together with its successors and assigns, the *"Bank"*).

#### RECITALS

WHEREAS, the Borrower and the Bank have agreed to enter into a revolving credit facility on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the recitals set forth above and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. DEFINITIONS; INTERPRETATION.

Section 1.1. Definitions. In addition to the terms defined in the recitals and elsewhere in this Agreement and in the Indenture, the following terms shall have the meanings set forth below:

"Act" means Chapter 14 of Title 12 of the Guam Code Annotated, as amended.

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

"Aggregate Annual Debt Service" means, for any year, Annual Debt Service for such year on all Senior Bonds.

"Agreement" means this Revolving Credit Agreement, as the same may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms hereof.

"Annual Debt Service" has the meaning set forth in the Indenture.

*"Applicable Law"* means (a) all applicable common law and principles of equity and (b) all applicable provisions of all (i) constitutions, statutes, rules, regulations and orders of all Governmental Authorities, (ii) Governmental Approvals and (iii) orders, decisions, judgments, writs, injunctions and decrees of all courts (whether at law or in equity) and arbitrators.

"Applicable Margin" means, for any day, with respect to any Loan, \_\_\_\_\_

"Audited Financial Statements" means the audited consolidated balance sheet of the Borrower for the fiscal year ended September 30, 2024, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal year of the Borrower, including the notes thereto.

"Available Tenor" means, as of any date of determination and with respect to the then current Benchmark, as applicable, (x) if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of the interest period for such rate pursuant to this Agreement or (y) otherwise, any payment period for interest calculated with reference to such Benchmark (or component thereof) that is or may be used for determining any frequency of making payments of interest calculated with reference to such Benchmark, in each case, as of such date, and not including, for the avoidance of doubt, any tenor for such Benchmark that is then removed from the interest period definition pursuant to Section 2.10(d) hereof.

"Bank" has the meaning set forth in the introductory paragraph hereof.

"Bank Agreement" means any credit agreement, liquidity agreement, standby bond purchase agreement, reimbursement agreement, direct purchase agreement (such as a continuing covenant agreement or supplemental bondholder's agreement), bond purchase agreement, or other agreement or instrument (or any amendment, supplement or other modification thereof) under which, directly or indirectly, any Person or Persons undertake(s) (i) to make or provide funds to make, payment of, (ii) to purchase or (iii) to provide credit enhancement for bonds, notes or other obligations of the Borrower secured by or payable from Revenues.

"Base Rate" means, at any time, the highest of \_\_\_\_\_.

*"Base Rate Loan"* means any Loan bearing interest at a rate based upon the Base Rate as provided in Section 2.2(a) hereof.

*"Benchmark"* means, initially, Daily Simple SOFR; *provided* that if a Benchmark Transition Event has occurred with respect to Daily Simple SOFR, or the then-current Benchmark, then *"Benchmark"* means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to clause (a) of Section 2.10 hereof.

*"Benchmark Replacement"* means with respect to any Benchmark Transition Event, for the applicable Benchmark Replacement Date and any Available Tenor, the sum of: (i) the alternate benchmark rate that has been selected by the Bank giving due consideration to (A) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (B) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for Dollardenominated syndicated or bilateral credit facilities and (ii) the related Benchmark Replacement Adjustment. If the Benchmark Replacement as determined above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Related Documents.

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

"Benchmark Replacement Date" means, with respect to any Benchmark, the earliest to occur of the following events with respect to the then-current Benchmark:

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

(2) in the case of clause (3) of the definition of "Benchmark Transition Event," the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by or on behalf of the administrator of such Benchmark (or such component thereof) or the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be non-representative or non-compliant with or non-aligned with the IOSCO Principles; provided, that such non-representativeness, non-compliance or non-alignment will be determined by reference to the most recent statement or publication referenced in such clause (3) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, the "*Benchmark Replacement Date*" will be deemed to have occurred in the case of clause (1) or (2) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

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

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

successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

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

(3) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) or the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are no longer, or as of a specified future date will no longer be, representative or in compliance with or aligned with the IOSCO Principles.

For the avoidance of doubt, a "*Benchmark Transition Event*" will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

*"Benchmark Unavailability Period"* means, with respect to any Benchmark, the period (if any) (x) beginning at the time that a Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Related Document in accordance with Section 2.10 hereof and (y) ending at the time that a Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Related Document in accordance with Section 2.10 hereof.

*"Board"* means the Consolidated Commission on Utilities established in Chapter 79 of Title 12 of the Guam Code Annotated or any other governing board of the Borrower hereinafter provided for pursuant to law.

*"Bonds"* means the [\_\_\_\_\_], issued pursuant to the terms of the Supplemental Indenture, evidencing the Loans and other Obligations owed to the Bank hereunder.

"Borrower" has the meaning set forth in the introductory paragraph hereof.

*"Borrower Representative"* means any officer authorized from time to time in writing by the Borrower, or its successors and assigns, to perform a designated act or execute a designated document.

"Business Day" means any day other than a Saturday, Sunday or a legal holiday on which commercial banks are authorized or required by law to be closed for business in New York, New York; *provided*, that, when used in connection with a Daily Simple SOFR Loan, or any other calculation or determination involving SOFR, the term "Business Day" means any day that is a U.S. Government Securities Business Day.

"Change in Law" means the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any Law, including, without limitation Risk-Based Capital Guidelines, (b) any change in any Law or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, ruling, guideline, regulation or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, rulings, guidelines, regulations or directives thereunder or issued in connection therewith and (ii) all requests, rules, rulings, guidelines, regulations or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States of America or foreign regulatory authorities, in each case pursuant to Basel III or any successor Basel accord, shall in each case be deemed to be a "Change in Law," regardless of the date enacted, adopted or issued.

*"Closing Date"* means [\_\_\_\_\_], 2025, which subject to the satisfaction or waiver by the Bank of the conditions precedent set forth in Section 5.1 and 5.2 hereof, is the date on which this Agreement shall become effective.

"*Code*" means the Internal Revenue Code of 1986, as amended, and, where appropriate any statutory predecessor or any successor thereto.

*"Commitment"* means, the obligation of the Bank to make Loans for the account of the Borrower hereunder in an aggregate principal at any one time outstanding not to exceed \$[\_\_\_\_], as such amount may be reduced pursuant to the terms hereof.

"Commitment Fee" has the meaning set forth in Section 3.1 hereof.

*"Commitment Fee Rate"* means, for any day, with respect to the Commitment Fees payable hereunder, the applicable percentage per annum \_\_\_\_\_\_.

*"Mandatory Tender Date"* means [\_\_\_\_], 202\_, and any date on which the Commitment is earlier terminated in accordance with the terms hereof.

*"Maturity Date"* means [\_\_\_\_], 20\_\_\_.

"Compliance Certificate" means a certificate substantially in the form of Exhibit E hereto.

"*Confidential Information*" means any sensitive or confidential information regarding the Borrower, the Bank or any Affiliate of the Bank including, without limitation, address and account information, e-mail addresses, telephone numbers, facsimile numbers, names and signatures of officers, employees and signatories.

"Conforming Changes" means, with respect to either the use or administration Daily Simple SOFR, or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Business Day," the definition of "U.S. Government Securities Business Day," any "interest period" definition or any similar or analogous definition (or the addition of a concept of "interest period"), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of Section 2.10 hereof and other technical, administrative or operational matters) that the Bank reasonably decides may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and administration thereof by the Bank in a manner substantially consistent with market practice (or, if the Bank reasonably decides that adoption of any portion of such market practice is not administratively feasible or if the Bank determines that no market practice for the administration of any such rate exists, in such other manner of administration as the Bank decides is necessary in connection with the administration of this Agreement and the other Related Documents).

"Consulting Engineer" has the meaning set forth in the Indenture.

*"Controlled Group"* means all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with the Borrower, are treated as a single employer under Section 414 of the Code.

"Credit Agreement Payments" has the meaning set forth in the Indenture.

"Credit Facility" means the revolving credit facility established pursuant to Section 2.1 hereof.

"Credit Outstandings" means, on any date, the sum of the aggregate outstanding principal amount of Loans after giving effect to any borrowing, prepayment or repayment of Loans.

"Credit Provider" has the meaning set forth in the Indenture.

"Daily Simple SOFR" means, for any day (a "SOFR Rate Day"), a rate per annum equal to SOFR for the day (such day, the "SOFR Determination Day"), that is five (5) U.S. Government Securities Business Days prior to (i) if such SOFR Rate Day is a U.S. Government Securities Business Day, such SOFR Rate Day or (ii) if such SOFR Rate Day is not a U.S. Government Securities Business Day, the U.S. Government Securities Business Day immediately preceding such SOFR Rate Day, in each case, as such SOFR is published by the SOFR Administrator on the SOFR Administrator's Website; *provided, however*, that if as of 5:00 p.m. (New York City time) on any SOFR Determination Day Daily Simple SOFR has not been published by the SOFR has not

occurred, then Daily Simple SOFR will be Daily Simple SOFR as published by the SOFR Administrator on the first preceding U.S. Government Securities Business Day for which Daily Simple SOFR was published by the SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such SOFR Determination Day *provided*, that to the extent such rate as determined above shall, at any time, be less than the Floor, such rate shall be deemed to be Floor for all purposes herein. The Bank shall determine the Daily Simple SOFR on each SOFR Determination Day and such rate shall become effective as of the applicable SOFR Rate Day.

*"Daily Simple SOFR Loan"* means any Loan bearing interest at a rate based upon Daily Simple SOFR as provided in Section 2.2(a) hereof.

"Debt" of any Person means at any date, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable arising in the ordinary course of business and not past due for more than sixty (60) days after the date on which such trade account was created), (d) finance leases (as determined under Financial Accounting Standards Board Accounting Standards Codification Topic 842, Leases) shown on the liabilities side of the balance sheet of a Person, (e) all Debt of others secured by a lien on any asset of such Person, whether or not such Debt is assumed by such Person, (f) all Guarantees by such Person of Debt of other Persons, (g) the maximum amount of all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments and (h) all obligations of such Person under any Swap Agreement.

"Debt Ratings" means the unenhanced long-term debt ratings assigned by the Rating Agencies to Parity Debt.

"Default" means any event or condition which, with notice, the passage of time or any combination of the foregoing, would constitute an Event of Default.

"Default Rate" means the Base Rate plus 4.00% per annum.

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

"Dollars" or "\$" means, unless otherwise qualified, dollars in lawful currency of the United States.

*"EMMA"* means Electronic Municipal Market Access as provided by the Municipal Securities Rulemaking Board.

*"Environmental Laws"* means any and all Federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the

environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

*"ERISA"* means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute of similar import, and regulations thereunder, in each case as in effect from time to time. References to Sections of ERISA shall be construed also to refer to any successor Sections.

*"Event of Default"* with respect to this Agreement has the meaning set forth in Section 7.1 of this Agreement and, with respect to any Related Document, has the meaning assigned therein.

*"Excluded Taxes"* means, with respect to the Bank or any Participant, (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which the Bank or such Participant is organized or in which its principal office is located, and (b) any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction in which the Bank is located.

*"Extension of Credit"* means the advancing of any Loan or the continuation of a Daily Simple SOFR Loan or Base Rate Loan.

*"Federal Funds Rate"* shall mean, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day, provided that if such rate is not so published for any day which is a Business Day, the Federal Funds Rate for such day shall be the average of the quotation for such day on such transactions received by the Bank from three federal funds brokers of recognized standing selected by the Bank. Notwithstanding the foregoing, if the Federal Funds Rate shall be less than the Floor, such rate shall be deemed to be the Floor for purposes of this Agreement.

"Fiscal Year" means the twelve-month period from October 1 through the following September 30.

"Fitch" means Fitch, Inc., and any successor rating agency.

"Floor" means a rate of interest equal to zero percent (0.00%) per annum.

*"FRB"* means the Board of Governors of the Federal Reserve System of the United States, together with any successors thereof.

*"Generally Accepted Accounting Principles"* or *"GAAP"* means generally accepted accounting principles in effect from time to time in the United States and applicable to entities such as the Borrower.

"Governmental Approval" means an authorization, consent, approval, permit, license, certificate of occupancy or an exemption of, a registration or filing with, or a report to, any Governmental Authority.

"Governmental Authority" means the government of the United States of America or any other nation or any political subdivision thereof or any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or European Central Bank), or any arbitrator, mediator or other Person with authority to bind a party at law. "Guarantee" means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Debt or other obligation payable or performable by another Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Debt or other obligation of the payment or performance of such Debt or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Debt or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Debt or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Debt or other obligation of any other Person, whether or not such Debt or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Debt to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning.

*"Hazardous Materials"* means all materials of any kind which are flammable, explosive, toxic, radioactive or otherwise hazardous to animal or plant life or the environment, including, without limitation, "hazardous wastes," "hazardous substances" and "contaminants," as such terms are defined by Environmental Law.

"Indemnified Taxes" means Taxes other than Excluded Taxes.

*"Indenture"* means the Indenture, dated as of December 1, 2005, among the Borrower, Bank of Guam, as Trustee, and U.S. Bank National Association, as Co-Trustee, relating to the Guam Waterworks Authority Water and Wastewater System Revenue Bonds, as amended, supplemented, or otherwise modified to date, and as may be further amended, supplemented, or otherwise modified from time to time in accordance with the terms thereof and hereof. *"Interest Payment Date"* means the first Business Day of each calendar month and on each day a Loan is repaid, prepaid, converted, converted, extended or matures. Notwithstanding the foregoing, interest at the Default Rate, whenever applicable, shall be payable on demand.

*"Investment Policy"* means the investment policy of the Borrower delivered to the Bank pursuant to Section 5.1(f) hereof, as it may be amended or replaced from time to time in the Borrower's sole discretion.

"IOSCO Principles" has the meaning set forth in Section 2.10(d) hereof.

"Laws" means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

"Lending Office" means, with respect to the Bank, the office of the Bank maintaining the Bank's Extensions of Credit.

"Lien" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

"Loan" has the meaning set forth in Section 2.1 hereof.

*"Margin Stock"* has the meaning ascribed to such term in Regulation U promulgated by the FRB, as now and hereafter from time to time in effect.

*"Material Adverse Effect"* means any material adverse effect on: (i) the ability of the Borrower to pay in accordance herewith the Obligations when and as due and payable or to perform its obligations hereunder or under or in connection with the Loans and the Related Documents, (ii) (taking into account available reserves and insurance coverages) the business, Properties, condition (financial or otherwise), results of operations or prospects of the Borrower considered as a whole, (iii) the legality, validity, binding effect or enforceability against the Borrower of any Related Document to which it is a party or the rights, security, interests or remedies of the Bank hereunder or under any other Related Document or (iv) the Borrower's tax-exempt status, as described in 4.8 hereof.

"Maximum Rate" means the maximum rate permitted by Applicable Law.

"Moody's" means Moody's Investors Service, Inc., or any successor rating agency.

"Net Revenues" has the meaning set forth in the Indenture.

"Notice of Account Designation" has the meaning set forth in Section 2.4(b) hereof.

"Notice of Borrowing" has the meaning set forth in Section 2.4(a) hereof.

"Notice of Conversion" has the meaning set forth in Section 2.4(c) hereof.

"Notice of Prepayment" has the meaning set forth in Section 2.5(c) hereof.

"Obligations" means all amounts payable by the Borrower, and all other obligations to be performed by the Borrower, pursuant to this Agreement and the other Related Documents (including, without limitation, the Loans and any amounts to reimburse the Bank for any advances or expenditures by it under any of such documents).

"OFAC" has the meaning set forth in Section 9.19 hereof.

*"Other Taxes"* means all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any other Related Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Related Document.

"Outstanding" has the meaning set forth in the Indenture.

"Owners" has the meaning set forth in the Indenture.

*"Parity Debt"* means the Debt of the Borrower that is secured by a pledge of, charge upon, and lien on Revenues.

"Parity Payment Agreement Payments" has the meaning set forth in the Indenture.

"Parity Payment Agreements" has the meaning set forth in the Indenture.

"Participant" has the meaning set forth in Section 9.9(c) hereof.

"*Patriot Act*" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Title III of Pub. L. 107-56 (signed into law October 26, 2001).

"PBGC" means the Pension Benefit Guaranty Corporation or any successor thereto.

*"Person"* means any individual, corporation, not for profit corporation, partnership, limited liability company, joint venture, association, professional association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other form of entity.

*"Plan"* means at any time an employee pension benefit plan which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code and is either (i) maintained by a member of the Controlled Group for employees of a member of the Controlled Group or (ii) maintained pursuant to a collective bargaining agreement or any other arrangement under which more than one employer makes contributions and to which a member of the Controlled Group is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions.

*"Prime Rate"* means, at any time, the rate of interest per annum publicly announced from time to time by the Bank as its prime rate. Each change in the Prime Rate shall be effective as of the opening of business on the day such change in such prime rate occurs. The parties hereto acknowledge that the rate announced publicly by the Bank as its prime rate is an index or base rate and shall not necessarily be its lowest or best rate charged to its customers or other banks.

*"Property"* means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible, whether now owned or hereafter acquired.

"Rating Agencies" means Fitch, S&P and/or Moody's, as applicable.

*"Related Documents"* means this Agreement, the Indenture, the Bonds, the Supplemental Indenture, and any other documents related to any of the foregoing or executed in connection therewith, and any and all future renewals and extensions or restatements of, or amendments or supplements to, any of the foregoing permitted hereunder and thereunder.

"*Related Parties*" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, and managers of such Person and of such Person's Affiliates.

*"Relevant Governmental Body"* means the FRB or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the FRB or the Federal Reserve Bank of New York, or any successor thereto.

"Revenue Fund" has the meaning set forth in the Indenture.

"Revenues" has the meaning set forth in the Indenture.

*"Risk-Based Capital Guidelines"* means (a) the risk-based capital guidelines in effect in the United States of America, including transition rules, and (b) the corresponding capital regulations promulgated by regulatory authorities outside the United States of America including transition rules, and any amendment to such regulations.

"Sanctions" means any sanction administered or enforced by the United States Government (including, without limitation, OFAC), the United Nations Security Council, the European Union, His Majesty's Treasury ("HMT") or other relevant sanctions authority.

*"S&P"* means S&P Global Ratings, or any successor rating agency.

"Senior Bonds" has the meaning assigned to the term "Bonds" set forth in the Indenture.

"Social Security Act" means the Social Security Act of 1965, as amended.

"SOFR" means a rate per annum equal to the secured overnight financing rate as administered by the SOFR Administrator.

"SOFR Administrator" means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

*"SOFR Administrator's Website"* means the website of the Federal Reserve Bank of New York, currently at http://www.newyorkfed.org, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

*"SOFR Determination Day"* has the meaning set forth in the definition of "Daily Simple SOFR."

"SOFR Rate Day" has the meaning set forth in the definition of "Daily Simple SOFR."

"Subsidiary" of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the Borrower.

*"Supplemental Indenture"* means the [\_\_\_\_] Supplemental Indenture, dated as of [\_\_\_\_], 2025, among the Borrower, Bank of Guam, as Trustee, and U.S. Bank National Association, as Co-Trustee, relating to the [\_\_\_\_], as amended, restated, or otherwise modified from time to time in accordance with the terms hereof and thereof.

"Swap Agreement" shall mean (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the fore-going), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

"System" means the water and sewer systems, now or hereafter existing, owned and/or operated by the Borrower or its contractors, agents or subcontractors.

*"Taxes"* means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, fines, additions to tax or penalties applicable thereto.

"Trustee" means Bank of Guam and U.S. Bank National Association, together with any permitted successors or assigns, as co-trustees.

"Unadjusted Benchmark Replacement" means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

"United States" and "U.S." means the United States of America.

*"Unused Commitment"* means the difference between the Commitment of the Bank then in effect and the aggregate outstanding principal amount of all Credit Outstandings.

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

Other Definitions and Provisions. With reference to this Agreement and each Section 1.2. other Related Document, unless otherwise specified herein or in such other Related Document: (a) the definitions of terms herein shall apply equally to the singular and plural forms of the terms defined, (b) whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms, (c) the words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation," (d) the word "will" shall be construed to have the same meaning and effect as the word "shall," (e) any reference herein to any Person shall be construed to include such Person's successors and assigns, (f) the words "herein," "hereof" and "hereunder," and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (g) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (h) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights, (i) the term "documents" includes, without limitation, any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form, (j) in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding;" and the word "through" means "to and including" and (k) Section headings herein and in the other Related

Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Related Document.

Section 1.3. Accounting Terms. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with GAAP. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in this Agreement or incorporated by reference herein or in any Related Document, and either the Borrower or the Bank shall so request, the Borrower and the Bank shall negotiate in good faith to amend such ratio or requirement for purposes of this Agreement to preserve the original intent thereof in light of such change in GAAP, including changes made by the Financial Accounting Standards Board; *provided* that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the Bank financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

*Section 1.4. Rounding.* Any financial ratios required to be maintained by the Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio or percentage is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

Section 1.5. References to Agreement and Laws. Unless otherwise expressly provided herein, (a) references to formation documents, governing documents, agreements (including the Related Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are not prohibited by any Related Document; and (b) references to any Applicable Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Applicable Law.

*Section 1.6. Times of Day.* Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

Section 1.7. Rates. The interest rate on the Loans may be derived from an interest rate benchmark that may be discontinued or is, or may in the future become, the subject of regulatory reform. Upon the occurrence of a Benchmark Transition Event, Section 2.10 hereof provides a mechanism for determining an alternative rate of interest. The Bank does not warrant or accept any responsibility for, and shall not have any liability with respect to, (a) the continuation of, the administration of, submission of, calculation of, performance of or any other matter related to any interest rate used in this Agreement (including, without limitation, SOFR, or Daily Simple SOFR) or any component definition thereof or rates referred to in the definition thereof, or with respect to any alternative or successor rate thereto, or replacement rate thereof (including any Benchmark Replacement), including, without limitation, whether the composition or characteristics of any

such alternative, successor or replacement reference rate will be similar to, or produce the same value or economic equivalence of, or have the same value or economic equivalence of as the existing interest rate (or any component thereof) being replaced or have the same volume or liquidity as did any existing interest rate (or any component thereof) prior to its discontinuance or unavailability. The Bank and its Affiliates and/or other related entities may engage in transactions that affect the calculation of any interest rate (or component thereof) used in this Agreement or any alternative, successor or alternative rate (including any Benchmark Replacement) and/or any relevant adjustments thereto, in each case, in a manner adverse to the Borrower. The Bank may select information sources or services in its reasonable discretion to ascertain any interest rate used in this Agreement, any component thereof, or rates referred to in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

### SECTION 2. THE REVOLVING CREDIT.

Section 2.1. The Loan Commitment. Subject to the terms and conditions of this Agreement and the other Related Documents, and in reliance upon the representations and warranties set forth herein, the Bank agrees to make a loan or loans (individually a "Loan" and collectively "Loans") in Dollars to the Borrower from time to time from and including the Closing Date through, but not including, the Mandatory Tender Date as requested by the Borrower in accordance with the terms of Section 2.4 hereof; *provided*, that (a) all Loans outstanding at any one time shall not exceed the Commitment and (b) the Credit Outstandings of the Bank shall not at any time exceed the Commitment. Each Loan by the Bank shall be in a principal amount equal to the aggregate principal amount of Loans requested on such occasion. Subject to the terms and conditions hereof, the Borrower may borrow, repay and reborrow Loans hereunder until the Mandatory Tender Date.

Section 2.2. Interest.

(a) Interest Rate Options. Subject to the provisions of this Agreement, (i) Base Rate Loans shall bear interest at the Base Rate from time to time in effect, and (ii) Daily Simple SOFR Loans shall bear interest at Daily Simple SOFR plus the Applicable Margin. The Borrower shall select the rate of interest applicable to any Loan at the time a Notice of Borrowing is given or at the time a Notice of Conversion is given pursuant to Section 2.4 hereof. Any Loan or any portion thereof as to which the Borrower has not duly specified an interest rate as provided herein shall be deemed a Daily Simple SOFR Loan.

(b) *Default Rate*. Notwithstanding the foregoing, during the occurrence and continuance of an Event of Default, the Bank may, at its option, with notice to the Borrower (provided, however, that the Default Rate shall commence accruing on the date of such Event of Default), declare that (i) all Loans shall bear interest at the Default Rate or (ii) in the case of any other amount outstanding hereunder, such amount shall accrue at the Default Rate. Interest shall continue to accrue on the Obligations after the filing by or against the Borrower of any petition

seeking any relief in bankruptcy or under any act or law pertaining to insolvency or debtor relief, whether state, federal or foreign. All accrued but unpaid interest pursuant to this Section 2.2(b) shall be due and payable on demand by the Bank.

(c) Interest Payment and Computation. Interest on Daily Simple SOFR Loans shall be due and payable in arrears on each Interest Payment Date. All computations of interest for Daily Simple SOFR Loans and fees and other amounts due hereunder shall be made on the basis of a year of 360 days and actual days elapsed. Interest on Base Rate Loans shall be due and payable in arrears on each Interest Payment Date. All computations of interest for Base Rate Loans shall be made on the basis of a year of 365 and actual days elapsed.

(d) *Maximum Rate.* If the rate of interest payable hereunder shall exceed the Maximum Rate for any period for which interest is payable, then (i) interest at the Maximum Rate shall be due and payable with respect to such interest period and (ii) interest at a rate equal to the difference between (A) the rate of interest calculated in accordance with the terms hereof and (B) the Maximum Rate (the "*Excess Interest*"), shall be deferred until such date as the rate of interest calculated in accordance with the terms hereof ceases to exceed the Maximum Rate, at which time the Borrower shall pay to the Bank, with respect to amounts then payable to the Bank that are required to accrue interest hereunder, such portion of the deferred Excess Interest as will cause the rate of interest shall continue to apply to such unpaid amounts hereunder until all deferred Excess Interest is fully paid to the Bank. Upon the termination of this Agreement, in consideration for the limitation of the rate of interest otherwise payable hereunder, the Borrower shall pay to the Bank a fee equal to the amount of all unpaid deferred Excess Interest.

(e) *Conforming Changes.* In connection with the use or administration of SOFR or Daily Simple SOFR, the Bank will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Related Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Related Document. The Bank will promptly notify the Borrower of the effectiveness of any Conforming Changes in connection with the use or administration of SOFR or Daily Simple SOFR, as applicable.

*Section 2.3. Minimum Borrowing Amounts.* Each Extension of Credit shall be in an amount not less than \$500,000 and in integral multiples of \$100,000 in excess thereof. The Bank shall not be obligated to make more than one Loan to the Borrower per Business Day.

Section 2.4. Manner of Borrowing Loans and Designating Interest Rates Applicable to Loans.

(a) *Requests for Borrowing*. The Borrower shall give notice to the Bank by no later than 10:00 a.m. (New York City time) (i) on the same Business Day as each Base Rate Loan, and (ii) three (3) Business Days prior to the date specified for such Loan for each Daily Simple SOFR Loan. Such notice shall be substantially in the form of Exhibit A hereto (a "*Notice of Borrowing*") and shall specify:

(i) The date of such borrowing, which shall be a Business Day (and, with respect to a Daily Simple SOFR Loan, must be a Business Day at least three (3) Business Days following the date of the notice);

(ii) The amount of such borrowing, which shall be not less than \$500,000 and integral multiples of \$100,000 in excess thereof; and

(iii) A certification that the statements contained in Sections 5.2(b) and 5.2(c) are true and correct as of the date of such borrowing.

Any such notice by means of a Notice of Borrowing shall be given by electronic mail to the Bank and in accordance with the foregoing not later than the time frames set forth above in this Section 2.4. The Borrower agrees that the Bank may rely upon any written notice given by any person the Bank reasonably and in good faith believes is a Borrower Representative without the necessity of independent investigation. Solely with respect to a Notice of Borrowing subject to the provisions of Section 5 hereof, the proceeds of each Loan shall be made available to the Borrower, in immediately available funds, in accordance with the terms of the written disbursement instructions of the Borrower. A Notice of Borrowing related to a Loan received after 10:00 a.m. (New York City time) shall be deemed received on the next Business Day. The Bank shall not be obligated to honor more than one request for a Loan per Business Day. A Notice of Borrowing, once given to the Bank, shall be irrevocable by the Borrower.

(b) *Disbursement of Loans.* Not later than 2:30 p.m. (New York City time) on the proposed borrowing date, the Bank will make available to the Borrower in funds immediately available to the Borrower, the requested Loan. The Borrower hereby irrevocably authorizes the Bank to disburse the proceeds of each borrowing requested pursuant to this Section in immediately available funds by crediting or wiring such proceeds to the deposit account of the Borrower identified in the most recent notice substantially in the form attached as Exhibit B hereto (a "*Notice of Account Designation*") delivered by the Borrower to the Bank or as may be otherwise agreed upon by the Borrower and the Bank from time to time.

(c) Notice and Manner of Conversion or Continuation of Loans. Provided that no Default or Event of Default has occurred and is then continuing, the Borrower shall have the option to convert Daily Simple SOFR Loans to Base Rate Loans or, subject to Section 2.10 hereof convert Base Rate Loans to Daily Simple SOFR Loans (*provided* that accrued interest on each Loan being converted shall be paid by the Borrower at the time of conversion). Whenever the Borrower desires to convert Loans as provided above, the Borrower Representative shall give the Bank irrevocable prior written notice in the form attached as Exhibit D hereto (a "Notice of Conversion"), not later than 10:00 a.m. (New York City time) 3 U.S. Government Securities Business Days before the day on which a proposed conversion of such Loan is to be effective specifying (A) the Loans to be converted, (B) the effective date of such conversion (which shall be both a Business Day and a U.S. Government Securities Business Day) and (C) the principal amount of such Loans to be converted. Notwithstanding the foregoing, and without limiting the rights and remedies of the Bank under Section 7.2 hereof, if any Event of Default shall have occurred and be continuing, the Bank may suspend the right of the Borrower to convert any Base Rate Loan into a Daily Simple

SOFR Loan, in which event each Loan shall be converted into, a Base Rate Loan, and shall accrue interest at the Default Rate.

Delayed Funding. After the Borrower delivers a Notice of Borrowing pursuant to (d)Section 2.4(a) hereof, the Bank may, not later than 4:00 p.m., New York City time on the date that is one (1) Business Day prior to the proposed date of borrowing, deliver a written notice (a "Delayed Funding Notice") to the Borrower of its intention to fund the related Loan (such amount, the "Delayed Amount") on a date (the date of such funding, the "Delayed Funding Date") that is on or before the thirty-second (32nd) day following the date of such Notice of Borrowing (or if such day is not a Business Day, then on the next succeeding Business Day) rather than on the requested date of borrowing. By delivery of a Delayed Funding Notice, the Bank shall be deemed to represent and warrant that (x) charges relating to the "liquidity coverage ratio" under Basel III have been incurred on the Bank's interests or obligations hereunder and (y) it is seeking or has obtained a delayed funding option in transactions similar to the transactions contemplated hereby as of the date of such Delayed Funding Notice. If the conditions to any Extensions of Credit described in Section 5.2 hereof are satisfied on the requested date of borrowing, there shall be no conditions whatsoever to the Bank's obligation to fund the requested amount on the related Delayed Funding Date. On each Delayed Funding Date, the Bank shall fund an aggregate amount equal to the Delayed Amount for such Delayed Funding Date.

## Section s. Repayment and Prepayment of Loans.

(a) *Repayment on Mandatory Tender Date*. The Borrower hereby agrees to repay the outstanding principal amount of all Loans in full on the Mandatory Tender Date, together, in each case, with all accrued but unpaid interest thereon, and any other Obligations due and owing hereunder. In the event that the purchase price of the Loans and the Bonds are not paid on the Mandatory Tender Date, the Loans and the Bonds shall be subject to mandatory redemption on such date and a failure to pay the redemption price on such date shall constitute an Event of Default hereunder.

(b) *Mandatory Prepayments*. If at any time the Credit Outstandings exceed the Commitment, the Borrower agrees to repay immediately upon notice from the Bank, by payment to the Bank, Extensions of Credit in an amount equal to such excess.

(c) Optional Prepayments. The Borrower may at any time and from time to time prepay Loans, in whole or in part, with irrevocable prior written notice to the Bank substantially in the form attached as Exhibit C hereto (a "Notice of Prepayment") given not later than 11:00 a.m. (New York City time) no less than three (3) Business Days before the date of such prepayment specifying the date and amount of prepayment. If any such notice is given, the amount specified in such notice shall be due and payable on the date set forth in such notice. Partial prepayments shall be in an aggregate amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. A Notice of Prepayment received after 11:00 a.m. (New York City time) shall be deemed received on the next Business Day. Any prepayment of principal of Loans shall be accompanied by all accrued interest on the amount prepaid.

### Section 2.6. Permanent Reduction or Termination of the Commitment.

(a) *Voluntary Reduction*. The Borrower shall have the right at any time and from time to time, upon at least five (5) Business Days prior written notice to the Bank, to permanently reduce (i) the entire Commitment at any time or (ii) portions of the Commitment, from time to time, in an aggregate principal amount not less than \$5,000,000 or any whole multiple of \$1,000,000 in excess thereof. All Commitment Fees accrued until the effective date of any reduction of the Commitment shall be paid on the effective date of such termination.

(b) *Corresponding Payment*. Each permanent reduction permitted pursuant to this Section shall be accompanied by a payment of principal sufficient to reduce the outstanding Loans after such reduction to the Commitment as so reduced. Any reduction of the Commitment to zero shall be accompanied by payment of all outstanding Loans and shall result in the termination of the Commitment and the Credit Facility.

Section 2.7. Termination of Credit Facility. The Credit Facility and the Commitment shall terminate on the Mandatory Tender Date.

Section 2.8. Payments. Each payment by the Borrower on account of the principal of or interest on the Loans or of any fee, commission or other amounts payable to the Bank under this Agreement shall be made not later than 2:00 p.m. (New York City time) (unless otherwise set forth herein) on the date specified for payment under this Agreement to the Bank at its Lending Office in Dollars, in immediately available funds and shall be made without any set off, counterclaim or deduction whatsoever. Any payment received after 2:00 p.m. (New York City time) shall be deemed to have been made on the next succeeding Business Day for all purposes. If any payment under this Agreement shall be specified to be made upon a day that is not a Business Day, it shall be made on the next succeeding day that is a Business Day and such extension of time shall in such case be included in computing any interest if payable along with such payment.

Section 2.9. Extensions of Credit. The Extensions of Credit made by the Bank shall be evidenced by one or more accounts or records maintained by the Bank in the ordinary course of business. The accounts or records maintained by the Bank shall be conclusive absent fraud, willful misconduct or manifest error of the amount of the Extensions of Credit made by the Bank to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations.

## Section 2.10. Benchmark Replacement Settings.

(a) *Benchmark Replacement.* (i) Notwithstanding anything to the contrary herein or in any other Related Document, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior any setting of the then-current Benchmark, then the Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Related Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the Business Day after the date notice of such Benchmark Replacement is provided to the

Borrower without any amendment to, or further action or consent of any other party to, this Agreement or any other Related Document.

(ii) No Swap Agreement shall be deemed to be a "Related Document" for purposes of this Section 2.10.

(b) *Benchmark Replacement Conforming Changes*. In connection with the use, administration, adoption or implementation of a Benchmark Replacement, the Bank will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Related Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of the Borrower or any other party to this Agreement or any other Related Document. The Bank will promptly notify the Borrower of the effectiveness of any Conforming Changes in connection with the use or administration of a Benchmark Replacement.

(c) Notices; Standards for Decisions and Determinations. The Bank will promptly notify the Borrower of (i) the implementation of any Benchmark Replacement and (ii) the effectiveness of any Conforming Changes in connection with the use, administration, adoption or implementation of a Benchmark Replacement. The Bank will promptly notify the Borrower of the removal or reinstatement of any tenor of a Benchmark pursuant to Section 2.9(d) hereof. Any determination, decision or election that may be made by the Bank pursuant to this Section 2.9, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its sole discretion and without consent from the Borrower or any other party to this Agreement or any other Related Document, except, in each case, as expressly required pursuant to this Section 2.9.

Unavailability of Tenor of Benchmark. Notwithstanding anything to the contrary (d)herein or in any other Related Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Bank in its reasonable discretion or (B) the administrator of such Benchmark or the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is not or will not be representative or in compliance with or aligned with the International Organization of Securities Commissions (IOSCO) Principles for Financial Benchmarks (the "IOSCO Principles"), then the Bank may modify the interest period definition (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable, non-representative, non-compliant or non-aligned tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is not or will not be representative or in compliance with or aligned with the IOSCO Principles for a Benchmark (including a Benchmark Replacement), then the Bank may modify the interest period definition (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(e) *Benchmark Unavailability Period.* Upon the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, (i) the Borrower may revoke any pending request for a borrowing of or conversion to a Daily Simple SOFR Loan and, failing that, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to a Base Rate Loan in the amount specified therein and (ii) any outstanding Daily Simple SOFR Loans shall be deemed to have been converted to Base Rate Loans immediately on the next succeeding Business Day.

Section 2.11. Mitigation Obligations. If the Bank requests compensation under Section 8.2 hereof, or requires the Borrower to pay additional amounts to the Bank or any Governmental Authority for the account of the Bank pursuant to Section 8.1 hereof, or if the Bank gives a notice pursuant to Section 2.15 hereof, then the Bank shall, at the request of the Borrower, use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or Affiliates, if, in the judgment of the Bank, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 8.1 or 8.2 hereof, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 2.15 hereof, as applicable, and (ii) would not subject the Bank to any unreimbursed cost or expense and would not otherwise be disadvantageous to the Bank. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by the Bank in connection with any such designation or assignment.

Section 2.12. Obligation. All amounts payable hereunder shall be evidenced by the Bonds issued to the Bank by the Borrower pursuant to the Supplemental Indenture on the Closing Date. The Bonds shall be dated the Closing Date, shall be issued in a principal amount equal to the Commitment of the Bank as of the Closing Date, shall be delivered concurrently herewith, and shall be expressed to mature on the Maturity Date. The Bank shall record on its books or records the amount of all amounts payable to the Bank hereunder and all payments thereof. Such books or records shall be *prima facie* evidence as to all such amounts absent fraud or manifest error.

Section 2.13. Request for Extension of Mandatory Tender Date. The Borrower may by written notice to the Bank request that the Mandatory Tender Date be extended for an additional period of time. The Bank shall have the right to accept or reject any such request in its sole and absolute discretion and failure of the Bank to provide a written response to the Borrower within 30 days after receipt of such request shall be deemed a rejection by the Bank of such request. If the Bank shall have accepted such request, then the Mandatory Tender Date shall be extended to the date agreed to in writing by the Bank and the Borrower.

*Section 2.14. Illegality.* If the Bank determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for the Bank or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to SOFR or Daily Simple SOFR, or to determine or charge interest rates based upon SOFR or Daily Simple SOFR, then, upon notice thereof by the Bank to the Borrower, any obligation of the Bank to make or continue Daily Simple SOFR Loans or to convert any Base Rate Loans to Daily Simple

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SOFR Loans shall be suspended, in each case, until the Bank notifies the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower shall, upon demand from the Bank, immediately prepay or, if applicable, convert all Daily Simple SOFR Loans to Base Rate Loans. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

Section 2.15. Inability to Determine Interest Rates .Subject to Section 3.7, if the Bank determines (which determination shall be conclusive and binding absent manifest error) that "Daily Simple SOFR" cannot be determined pursuant to the definition thereof, the Bank will promptly so notify the Borrower. Upon notice thereof by the Bank to the Borrower, any obligation of the Bank to make or continue Daily Simple SOFR Loans or to convert Base Rate Loans to Daily Simple SOFR Loans shall be suspended (to the extent of the affected Daily Simple SOFR Loans) until the Bank revokes such notice. Upon receipt of such notice, (i) the Borrower may revoke any pending request for a borrowing of, conversion to or continuation of Daily Simple SOFR Loans (to the extent of the affected Daily Simple SOFR Loans) or, failing that, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans in the amount specified therein and (ii) any outstanding affected Daily Simple SOFR Loans will be deemed to have been converted into Base Rate Loans immediately.

#### SECTION 3. FEES.

Section 3.1. Commitment Fee. The Borrower shall pay to the Bank in accordance with this Section 3.1 a non-refundable commitment fee (the "Commitment Fee") at the rate per annum equal to the Commitment Fee Rate on the average daily Unused Commitment of the Bank. Such Commitment Fee shall be payable quarterly in arrears on the first Business Day following the end of each January, April, July and October in each year (commencing on the first such date occurring after the date hereof) and on the Mandatory Tender Date, unless the Commitment is terminated in whole on an earlier date, in which event the Commitment Fee for the period to the date of such termination in whole shall be paid on the date of such termination. The Commitment Fee shall be computed on the basis of a year of 360 days and actual number of days elapsed.

Section 3.2. Amendment Fees. The Borrower agrees to pay to the Bank, for its own account, on the date of each amendment, modification, or supplement of the Agreement or any amendment, modification, or supplement to any other Related Document which requires the waiver or consent of the Bank, an amendment, modification, supplement, waiver or consent fee, as applicable, in an amount agreed to by the Borrower and the Bank, plus the reasonable fees and expenses of any legal counsel retained by the Bank in connection therewith.

*Section 3.3.* Draw Fee. The Borrower agrees to pay to the Bank, for its own account, in connection with each Loan hereunder, a non-refundable drawing fee in the amount of \$\_\_\_\_\_, payable on the date of each such Loan without notice or invoice to the Borrower.

*Section 3.4. Fee Calculations.* All fees payable under this Agreement shall be computed on the basis of a year of 360 days and the actual number of days elapsed. All determinations of the amount of fees owing hereunder (and the components thereof) shall be made by the Bank and shall be conclusive absent fraud, willful misconduct, or manifest error.

#### SECTION 4. REPRESENTATIONS AND WARRANTIES.

The Borrower makes the following representations and warranties to the Bank:

Section 4.1. Existence and Power. The Borrower is a public corporation of the government of Guam duly organized, validly existing and in good standing under the Laws of the State and has the power and authority to own its properties and to carry on its businesses as now being conducted and as currently contemplated to be conducted hereafter and is duly qualified to do business in each jurisdiction in which the character of the properties owned or leased by it or in which the transactions of any material portion of its business (as now conducted and as currently contemplated to be conducted.

*Section 4.2. Due Authorization.* (a) The Borrower has the corporate power, and has taken all necessary corporate action to authorize the Related Documents to which it is a party, and to execute, deliver and perform its obligations under this Agreement and each of the other Related Documents to which it is a party in accordance with their respective terms. The Borrower has approved the form of the Related Documents to which it is not a party.

(b) The Borrower is duly authorized and licensed to own its Property and to operate its business under the laws, rulings, regulations and ordinances of all Governmental Authorities having the jurisdiction to license or regulate such Property or business activity and the departments, agencies and political subdivisions thereof, and the Borrower has obtained all requisite approvals of all such governing bodies required to be obtained for such purposes. All Governmental Approvals necessary for the Borrower to enter into this Agreement and the other Related Documents and to perform the transactions contemplated hereby and thereby and to conduct its business activities and own its property have been obtained and remain in full force and effect and are subject to no further administrative or judicial review. No other Governmental Approval or other action by, and no notice to or filing with, any Governmental Authority is required for the due execution, delivery and performance by the Borrower of this Agreement or the due execution, delivery or performance by the Borrower of the Related Documents.

Section 4.3. Valid and Binding Obligations. This Agreement has been duly executed and delivered by one or more duly authorized officers of the Borrower, and each of the Related Documents to which the Borrower is a party, when executed and delivered by the Borrower will be, a legal, valid and binding obligation of the Borrower enforceable in accordance with its terms, except as such enforceability may be limited by (a) the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar Law affecting creditors' rights generally, and (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at Law).

Section 4.4. Noncontravention; Compliance with Law. (a) The execution, delivery and performance of this Agreement and each of the other Related Documents in accordance with their respective terms do not and will not (i) contravene the Borrower's organizational documents or authorizing legislation, as applicable, or the Act, (ii) require any consent or approval of any creditor of the Borrower, (iii) violate any Laws (including, without limitation, Regulations T, U or X of the FRB, or any successor regulations, or the Act), (iv) conflict with, result in a breach of or

constitute a default under any contract to which the Borrower is a party or by which it or any of its Property may be bound or (v) result in or require the creation or imposition of any Lien upon or with respect to any Property now owned or hereafter acquired by the Borrower or any Affiliate thereof except such Liens, if any, expressly created by a Related Document.

(b) The Borrower is in compliance with all Laws, except for such noncompliance that, singly or in the aggregate, has not caused or is not reasonably expected to cause a Material Adverse Effect.

Section 4.5. Pending Litigation and Other Proceedings. There is no action, suit or proceeding pending in any court, any other Governmental Authority with jurisdiction over the Borrower or any arbitration in which service of process has been completed against the Borrower or, to the knowledge of the Borrower, any other action, suit or proceeding pending or threatened in any court, any other Governmental Authority with jurisdiction over the Borrower or any arbitrator, in either case against the Borrower or any of its properties or revenues, or any of the Related Documents to which it is a party which is reasonably likely to result in a Material Adverse Effect, except any action, suit or proceeding which has been brought prior to the Closing Date as to which the Bank has received an opinion of counsel satisfactory to the Bank, in form and substance satisfactory to the Bank and the Bank's legal counsel, to the effect that such action, suit or proceeding is without substantial merit.

Section 4.6. Financial Statements. The Audited Financial Statements, which financial statements, accompanied by the audit report of [Name of Accounting Firm], heretofore furnished to the Bank, which are consistent in all material respects with the audited financial statements of the Borrower for the Fiscal Year ended September 30, 2024, fairly present the financial condition of the Borrower in all material respects as of such dates and the results of its operations for the periods then ended in conformity with GAAP. Since the date of the Audited Financial Statements, there has been no material adverse change in the financial condition or operations of the Borrower that could reasonably be expected to result in a Material Adverse Effect.

Section 4.7. ERISA. The Borrower is not subject to ERISA and maintains no Plans.

Section 4.8. No Defaults. No default by the Borrower has occurred and is continuing in the payment of the principal of or premium, if any, or interest on any Parity Debt including, without limitation, regularly scheduled payments on Swap Agreements which constitute Parity Debt. No bankruptcy, insolvency or other similar proceedings pertaining to the Borrower or any agency or instrumentality of the Borrower are pending or presently contemplated. No Default or Event of Default has occurred and is continuing hereunder. No "default" or "event of default" under, and as defined in, any of the other Related Documents has occurred and is continuing. The Borrower is not presently in default under any material agreement to which it is a party which could reasonably be expected to have a Material Adverse Effect. The Borrower is not in violation of any material term of the organizational documents or authorizing legislation applicable to the Borrower or any material term of any bond indenture or agreement to which it is a party or by which any of its Property is bound which could reasonably be expected to result in a Material Adverse Effect. *Section 4.9. Insurance.* The Borrower currently maintains a system of self-insurance or insurance coverage with insurance companies believed by the Borrower to be capable of performing their obligations under the respective insurance policies issued by such insurance companies to the Borrower (as determined in its reasonable discretion) and in full compliance with Section 6.6 of the Indenture and Section 6.4 hereof.

Section 4.10. Title to Assets. The Borrower has good and marketable title to its assets except where the failure to have good and marketable title to any of its assets would not have a Material Adverse Effect. No assets of the Borrower are subject to any Lien other than Liens permitted by Section 6.5 of the Indenture.

Section 4.11. Incorporation by Reference. The representations and warranties of the Borrower contained in the other Related Documents to which the Borrower is a party, together with the related definitions of terms contained therein, are hereby incorporated by reference in this Agreement as if each and every such representation and warranty and definition were set forth herein in its entirety, and the representations and warranties made by the Borrower in such Sections are hereby made for the benefit of the Bank. No amendment to or waiver of such representations and warranties or definitions made pursuant to the relevant Related Document or incorporated by reference by reference herein without the prior written consent of the Bank.

Section 4.12. Correct Information. All information, reports and other papers and data with respect to the Borrower furnished by the Borrower to the Bank were, at the time the same were so furnished, correct in all material respects. Any financial, budget and other projections furnished by the Borrower to the Bank were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair and reasonable in light of conditions existing at the time of delivery of such financial, budget or other projections, and represented, and as of the date of this representation, represent (subject to the updating or supplementation of any such financial, budget or other projections by any additional information provided to the Bank in writing, the representations contained in this Agreement being limited to financial, budget or other projections as so updated or supplemented), in the judgment of the Borrower, a reasonable, good faith estimate of the information purported to be set forth, it being understood that uncertainty is inherent in any projections and that no assurance can be given that the results set forth in the projections will actually be obtained. No fact is known to the Borrower that materially and adversely affects or in the future may (as far as it can reasonably foresee) materially and adversely affect the security for any of the Bonds, or the ability of the Borrower to repay when due the Obligations, that has not been set forth in the financial statements and other documents referred to in this Section 4.12 or in such information, reports, papers and data or otherwise disclosed in writing to the Bank. The documents furnished and statements made by the Borrower in connection with the negotiation, preparation or execution of this Agreement and the Related Documents do not contain untrue statements of material facts or omit to state material facts necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

Section 4.13. Use of Proceeds; Margin Stock. The Borrower will not use the proceeds from the Loans in contravention of any Law or of any Related Document. The Borrower is not engaged in the business of extending credit for the purpose of purchasing or carrying Margin Stock, and no

part of the proceeds from the Loans will be used to purchase or carry any such Margin Stock or extend credit to others for the purpose of purchasing or carrying any such Margin Stock.

Section 4.14. Usury. None of the Related Documents or the Bonds provide for any payments that would violate any applicable Law regarding permissible maximum rates of interest.

Section 4.15. Security. The Indenture creates, for the benefit of the owners of the Bonds which evidence the Loans and the other Obligations, the legally valid, binding and irrevocable Lien on, charge on, and pledge of the Revenues to secure the payment of the principal of (including any redemption obligations due and owing pursuant to Section 2.05(a) hereof), premium, if any, and interest on the Bonds which evidence the Loans and the other Obligations. There is no lien on the Revenues other than the lien created by the Indenture. The Indenture does not permit the issuance or incurrence of any Debt secured by the Revenues to rank senior to the Bonds which evidence the Loans and the other Obligations. The payment of the Bonds which evidence the Loans and the other Obligations ranks on a parity with the payment of the principal and purchase price of and interest on all Parity Debt and is not subordinate to any payment secured by a lien on the Revenues or any other claim, and is prior as against all other Persons having claims of any kind in tort, contract or otherwise, whether or not such Persons have notice of such lien. No filing, registration, recording or publication of the Indenture or any other instrument is required to establish the pledge provided for thereunder or to perfect, protect or maintain the Lien created thereby on the Revenues to secure the Bonds which evidence the Loans and the other Obligations. The Bonds evidencing the Loans hereunder constitute Senior Bonds under the Indenture.

Section 4.16. Pending Legislation and Decisions. There is no amendment, or to the knowledge of the Borrower, proposed amendment to the Constitution of the State or any State Law or any administrative interpretation of the Constitution of the State or any State Law, or any legislation that has passed either house of the legislature of the State, or any judicial decision interpreting any of the foregoing, the effect of which could reasonably be expected to result in a Material Adverse Effect.

*Section 4.17. Solvency.* The Borrower is solvent and able to pay its debts as they become due.

Section 4.18. Environmental Matters. The operations of the Borrower are in material compliance with all of the requirements of applicable Environmental Laws and are not the subject of any governmental investigation evaluating whether any remedial action is needed to respond to a release of any toxic or hazardous waste or substance into the environment, where a failure to comply with any such requirement or the need for any such remedial action could reasonably be expected to result in a Material Adverse Effect.

Section 4.19. No Immunity. The Borrower is not entitled to claim immunity on the grounds of sovereignty or other similar grounds (including, without limitation, governmental immunity) with respect to itself or its revenues (irrespective of their use or intended use) from (i) any action, suit or other proceeding arising under or relating to this Agreement or any Related Document, (ii) relief by way of injunction, order for specific performance or writ of mandamus or for recovery of property or (iii) execution or enforcement of any judgment to which it or its Revenues might

otherwise be made subject in any action, suit or proceeding relating to this Agreement or any other Related Document, and no such immunity (whether or not claimed) may be attributed to the Borrower or its Revenues.

Section 4.20. No Public Vote or Referendum. There is no public vote or referendum pending, proposed or concluded, the results of which could reasonably be expected to result in a Material Adverse Effect.

*Section 4.21. Swap Agreements.* The Borrower has not entered into any Swap Agreement relating to Debt (a) wherein any termination payment thereunder is senior to or on a parity with the payment of the Bonds or the other Obligations or (b) which requires the Borrower to post cash collateral to secure its obligations thereunder.

Section 4.22. Sanctions Concerns and Anti-Corruption Laws. (a) Sanctions Concerns. Neither the Borrower nor any Subsidiary, nor, to the knowledge of the Borrower and its Subsidiaries, any director, officer, employee, agent, affiliate or representative thereof, is an individual or entity that is, or is owned or controlled by one or more individuals or entities that are (i) currently the subject or target of any Sanctions, (ii) included on OFAC's List of Specially Designated Nationals or HMT's Consolidated List of Financial Sanctions Targets, or any similar list enforced by any other relevant sanctions authority or (iii) located, organized or resident in a Designated Jurisdiction. The Borrower and its Subsidiaries have conducted their businesses in compliance with all applicable Sanctions and have instituted and maintained policies and procedures which cover compliance with such Sanctions.

(b) Anti-Corruption Laws. The Borrower and its Subsidiaries have conducted their business in compliance in all material respects with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other applicable anti-corruption legislation in other jurisdictions, and have instituted and maintained policies and procedures which cover compliance with such laws.

Section 4.23. No Existing Right to Accelerate. As of the Closing Date, no Person, including, without limitation, any credit facility provider or Bank, either of which provides credit enhancement or liquidity support to any Parity Debt, or any holder of Parity Debt, has a right under any indenture, or supplemental indenture relating to any such Parity Debt or under any other document or agreement relating to any Parity Debt, to direct the trustee to cause a mandatory acceleration of such Parity Debt, or to otherwise declare the principal of and interest on any Parity Debt to be immediately due and payable, prior to its maturity.

Section 4.24. Taxes. The Borrower has filed or caused to be filed, if any, all material tax returns required by Law to be filed and has paid or caused to be paid all material Taxes, assessments and other governmental charges levied upon or in respect of any of its properties, assets or franchises, other than Taxes the validity or amount of which are being contested in good faith by the Borrower by appropriate proceedings and for which the Borrower shall have set aside on its books adequate reserves in accordance with GAAP.

SECTION 5. CONDITIONS PRECEDENT.

The obligation of the Bank to advance, continue, or convert any Loan shall be subject to the following conditions precedent:

*Section 5.1. Closing Date.* Before or on the Closing Date, the Bank shall have received the following in form and substance satisfactory to the Bank:

(a) a copy of the resolution or other action of the governing body of the Borrower authorizing the execution, delivery and performance of this Agreement;

(b) executed copies (with originals to promptly follow) of this Agreement, the Bonds, the Supplemental Indenture, and each other Related Document;

(c) an opinion of Borrower's counsel, addressed to the Bank or on which the Bank is otherwise expressly authorized to rely, as to the due execution, delivery and enforceability of this Agreement and the other Related Documents, and such matters as the Bank may reasonably request;

(d) a certificate signed by a Borrower Representative certifying on the Closing Date (and after giving effect to the terms hereof) (i) that there has been no event or circumstance since September 30, 2024, that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect, (ii) that the representations and warranties contained in Article V hereof and the other Related Documents are true and correct in all material respects on the Closing Date, except to the extent such representations and warranties expressly refer to an earlier date, and in such case were true and correct in all material respects on such date, and (iii) no event has occurred and is continuing, or would result from entry into this Agreement, which would constitute a Default or Event of Default;

(e) a certificate dated the Closing Date and signed by an authorized officer of the Borrower, certifying as to the incumbency and signature of the respective officers of the Borrower executing this Agreement and any other document to which the Borrower is a party together with satisfactory evidence of the incumbency of such respective officers;

(f) a copy of the Borrower's Investment Policy in effect as of the Closing Date;

(g) the audited annual financial statements for the Borrower and its Subsidiaries for the Fiscal Year ended September 30, 2024, together with internally prepared financial statements of the Borrower and its Subsidiaries for the fiscal quarter(s) ended since the end of such Fiscal Year;

(h) a certified copy of the Act;

(i) recent evidence that the long term unenhanced debt rating assigned by Moody's and S&P to Parity Debt is at least "[\_\_]," "[\_\_], and "[\_\_]," respectively; and

(j) all legal matters incident to the execution and delivery of the Related Documents shall be reasonably satisfactory to the Bank.

On or prior to the Closing Date, the Bank shall have received reimbursement (or direct payment) of the Bank's fees and expenses (including the legal fees and expenses of Chapman and Cutler LLP) and any other fees incurred in connection with the transaction contemplated by the Related Documents.

Section 5.2. All Extensions of Credit. As of the time of each Extension of Credit hereunder:

(a) In connection with each Loan, the Bank shall have received the Notice of Borrowing required by Section 2.4(a) hereof or Notice of Conversion pursuant to Section 2.4(b) hereof;

(b) Each of the representations and warranties set forth (including those incorporated by reference) in Section 4 hereof shall be and remain true and correct in all material respects as of the date of such Extension of Credit (except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date, and except that for purposes of this Section 5.2, the representations and warranties contained in Section 4.4 hereof shall be deemed to refer to the most recent statements furnished pursuant to Section 6.1(i)(a) hereof);

(c) No Default or Event of Default shall have occurred and be continuing or would occur as a result of such Extension of Credit;

(d) After giving effect to such Extension of Credit, the aggregate principal amount of all Loans outstanding hereunder shall not exceed the Commitment; and

(e) Such Extension of Credit shall not violate any order, judgment or decree of any court or other authority or any provision of law or regulation applicable to the Bank (including, without limitation, Regulation U of the FRB).

Each request for an Extension of Credit hereunder shall be deemed to be a representation and warranty by the Borrower on the date of such Extension of Credit as to the facts specified in paragraphs (b) and (c) of this Section 5.2.

### SECTION 6. COVENANTS.

The Borrower covenants and agrees, until the full and final payment and satisfaction of all of the Obligations, except in any instance in which the Bank specifically agrees in writing to any non-performance or noncompliance, that:

Section 6.1. Existence, Etc. The Borrower (a) shall maintain its existence pursuant to the Act or such other organizational documents and authorizing legislation, as applicable, and the Laws of Guam, and (b) shall not liquidate or dissolve, or sell or lease or otherwise transfer or dispose of all or any substantial part of its property, assets or business, or combine, merge or consolidate with or into any other entity or change the use of facilities or assets that generate Revenues.

*Section 6.2. Maintenance of Properties.* The Borrower shall, in all material respects, maintain, preserve and keep its Property in good repair, working order and condition (ordinary wear and tear excepted), except to the extent that the failure to do so could reasonably be expected to result in a Material Adverse Effect.

Section 6.3. Compliance with Laws; Taxes and Assessments. The Borrower shall comply with all Laws applicable to it and its Property, except where non-compliance could not reasonably be expected to result in a Material Adverse Effect, such compliance to include, without limitation, paying all Taxes, assessments and governmental charges imposed upon it or its Property before the same become delinquent, unless and to the extent that the same are being contested in good faith and by appropriate proceedings and reserves are provided therefor that in the opinion of the Borrower are adequate.

Section 6.4. Insurance. The Borrower shall maintain insurance with reputable insurance companies or associations believed by the Borrower at the time of purchase of such insurance to be financially sound and in such amounts and covering such risks as are usually carried by organizations engaged in the same or a similar business and similarly situated, which insurance may provide for reasonable deductibles from coverage. The Borrower shall upon request of the Bank furnish a certificate setting forth in summary form the nature and extent of the insurance maintained pursuant to this Section 6.4.

Section 6.5. Reports. The Borrower shall furnish to the Bank in form and detail satisfactory to the Bank:

[(a) Annual Report. As soon as available, and in any event within [\_\_] days after the end of the Fiscal Year, the annual audited financial statements of the Borrower together with the opinion of the Borrower's independent accountants.]<sup>1</sup>

[(b) Unaudited Quarterly Financials. As soon as available, and in any event within [\_\_] days after each of the first three quarters of each Fiscal Year, the

<sup>1</sup> To be determined.

unaudited financial statements of the Borrower, including the balance sheet as of the end of such quarter and a statement of income and expenses, all in reasonable detail and certified, subject to year-end adjustment, by a Borrower Representative.]<sup>2</sup>

[(c) Compliance Certificate. In connection with the financial statements required to be delivered by the Borrower pursuant to [Sections 6.5(a) and (b) hereof], a Compliance Certificate signed by an Borrower Representative [(x)] stating that no Event of Default or Default has occurred, or if such Event of Default or Default has occurred, specifying the nature of such Event of Default or Default, the period of its existence, the nature and status thereof and any remedial steps taken or proposed to correct such Event of Default or Default or Default [and (y) demonstrating compliance with the financial covenants set forth in Section \_\_\_\_\_ hereof.]]<sup>3</sup>

[(d) *Budget.* As soon as available, and in any event within [\_\_] days following the approval thereof, the operating budget of the Borrower.]<sup>4</sup>

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

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

<sup>2</sup> To be determined.

<sup>&</sup>lt;sup>3</sup> To be determined.

<sup>4</sup> To be determined.

(g) *Litigation*. As promptly as practicable, written notice to the Bank of all actions, suits or proceedings pending or threatened against the Borrower before any arbitrator of any kind or before any court or any other Governmental Authority which could reasonably be expected to result in a Material Adverse Effect.

(h) *Amendments*. Promptly after the adoption thereof and to the extent is not required to receive and make notice of the same, copies of any amendments to the Related Documents or to any provisions of the same.

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

Section 6.6. Maintenance of Books and Records. The Borrower will keep proper books of record and account in which full, true and correct entries in accordance with GAAP. All financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the financial statements, except as otherwise specifically prescribed herein. Except as provided in the immediately preceding sentence, in preparing any financial data or statements contemplated or referred to in this Agreement, the Borrower shall not vary or modify the accounting methods or principles from the accounting standards employed in the preparation of its audited financial statements described in Section 5.06 hereof.

Section 6.7. Access to Books and Records. The Borrower will permit any Person designated by the Bank (at the expense of the Bank, unless and until a Default or Event of Default has occurred, at which time such expenses shall be borne by the Borrower) to visit any of the offices of the Borrower to examine the books and financial records (except books and financial records the examination of which by the Bank is prohibited by Law or by attorney or client privilege), including minutes of meetings of any relevant governmental committees or agencies, and make copies thereof or extracts therefrom, and to discuss the affairs, finances and accounts of the Borrower with their principal officers, employees and independent public accountants, all at such reasonable times and as often as the Bank may reasonably request.

Section 6.8. Compliance With Documents. The Borrower agrees that it will perform and comply with each and every covenant and agreement required to be performed or observed by it in the Indenture and each of the other Related Documents to which it is a party, which provisions, as well as related defined terms contained therein, are hereby incorporated by reference herein with the same effect as if each and every such provision were set forth herein in its entirety all of which shall be deemed to be made for the benefit of the Bank and shall be enforceable against the Borrower. To the extent that any such incorporated provision permits the Borrower or any other party to waive compliance with such provision or requires that a document, opinion or other instrument or any event or condition be acceptable or satisfactory to the Borrower or any other party, for purposes of this Agreement, such provision shall be complied with unless it is specifically waived by the Bank in writing and such document, opinion or other instrument and such event or condition shall be acceptable or satisfactory only if it is acceptable or satisfactory to

the Bank which shall only be evidenced by the written approval by the Bank of the same. Except as permitted by Section 6.14 hereof, no termination or amendment to such covenants and agreements or defined terms or release of the Borrower with respect thereto made pursuant to the Indenture or any of the other Related Documents to which the Borrower is a party, shall be effective to terminate or amend such covenants and agreements and defined terms or release the Borrower with respect thereto in each case as incorporated by reference herein without the prior written consent of the Bank. Notwithstanding any termination or expiration of the Indenture or any such other Related Document to which the Borrower is a party, the Borrower shall continue to observe the covenants therein contained for the benefit of the Bank until the termination of this Agreement and the payment in full of the Bonds and all other Obligations. All such incorporated covenants shall be in addition to the express covenants contained herein and shall not be limited by the express covenants contained herein nor shall such incorporated covenants be a limitation on the express covenants contained herein.

*Section 6.9. Rate Covenant.* (a) The Borrower shall at all times fix, prescribe and collect rates, fees and charges in connection with the services furnished by the System which will be sufficient to yield the sum of Net Revenues during each Fiscal Year equal to at least \_\_\_\_\_\_\_ times the Aggregate Annual Debt Service for such Fiscal Year and to yield Revenues during each Fiscal Year equal to at least the aggregate amount of all transfers required by Section 5.02(A) through (E) of the Indenture for such Fiscal Year.

The debt service coverage ratio specified in this Section 6.9 shall be the debt service coverage ratio used by the Borrower, together with other appropriate factors, in setting rates.

If the financial statements prepared pursuant to Section 6.7(B)(1) of the Indenture reflect that (or if the Borrower's other books and records at the time such statements are due hereunder reflect that) at the end of a Fiscal Year the sum of Net Revenues shall have been less than 1.25 times Aggregate Annual Debt Service for such Fiscal Year, or if Revenues shall have been less than the aggregate amount of all transfers required by Sections 5.02(A) through (E) of the Indenture for such Fiscal Year, the Borrower shall promptly employ a Consulting Engineer to make recommendations as to a revision of such rates, fees and charges or the methods of operation of the System. The Borrower shall, promptly upon its receipt of such recommendations, subject to applicable requirements or restrictions imposed by law and subject to a good faith determination of the Board that such recommendations, in whole or in part, are in the best interests of the Borrower, the Owners and each Credit Provider [(including without limitation the Bank)], revise such rates, fees and charges or methods of operation and will take such other actions as shall be in conformity with such recommendations.

If the Borrower complies in all material respects with the reasonable recommendations of the Consulting Engineer with respect to said rates, fees, charges and methods of operation or collection, or makes a good faith determination that such recommendations are not in the best interests of the Borrower, the Borrower will be deemed to have complied with this Section 6.09 for such Fiscal Year; *provided*, that Net Revenues shall in no event have been less than Aggregate Annual Debt Service for such Fiscal Year.

(B) The Borrower may make adjustments from time to time in its rates, fees and charges and may make such classification thereof as it deems necessary, but shall not reduce such rates, fees and charges below those then in effect unless the Revenues from such reduced rates, fees and charges will at all times be sufficient to meet the requirements of this Section 6.09.

Section 6.10. Operation and Maintenance of the System. The Borrower will maintain and preserve the System in good repair and working order at all times from the Revenues available for such purposes, in conformity with prudent management and standards customarily followed in the industry for systems of like size and character. The Borrower will from time to time make all necessary and proper repairs, renewals, replacements and substitutions to the properties of the System, so that at all times business carried on in connection with the System shall and can be properly and advantageously conducted in an efficient manner and at reasonable cost. The Borrower will operate the System in an efficient and economical manner, consistent with the protection of the Owners of the Senior Bonds and so as to assure that the System shall be financially self-sufficient and self-sustaining. The Borrower shall not commit or allow any waste with respect to the System. Nothing herein shall prohibit the Borrower from subcontracting any part of the maintenance and operation of the System.

Section 6.11. Sale and Disposition of Property. (a) Neither the Borrower nor the Government of Guam will not sell or otherwise dispose of the System or any part thereof, or permit others to sell or otherwise dispose of the System or any part thereof, essential to the proper operation of the System or to the collection of Revenues sufficient to pay debt service on the Senior Bonds, Parity Payment Agreement Payments and Credit Agreement Payments and otherwise comply with Section 6.12. The Borrower will not enter into any agreement which impairs the operation of the System or impedes the collection of Revenues sufficient to pay debt service on the Senior the Senior Bonds, Parity Payment Agreement Payments and Credit Agreement Payments and otherwise on the Senior Bonds, Parity Payment Agreement Payments and Credit Agreement Payments and otherwise on the Senior Bonds, Parity Payment Agreement Payments and Credit Agreement Payments and otherwise on the Senior Bonds, Parity Payment Agreement Payments and Credit Agreement Payments and otherwise on the Senior Bonds, Parity Payment Agreement Payments and Credit Agreement Payments and otherwise comply with Section 6.12 of the Indenture and Section 6.9 hereof.

(b) Any real or personal property which has become nonoperative or which is not needed for the efficient and proper operation of the System, or any material or equipment which has worn out, may be sold at a price not less than the fair market value thereof if such sale will not reduce Net Revenues and if the net proceeds of such sale are deposited in the Revenue Fund.

*Section 6.12. No Impairment.* The Borrower will neither take any action, nor cause the Trustee to take any action, under the Indenture or any other Related Document which would materially adversely affect the rights, interests, remedies or security of the Bank under this Agreement or any other Related Document or which could reasonably be expected to result in a Material Adverse Effect.

Section 6.13. Application of Bond Proceeds. The Borrower will not take or omit to take any action, which action or omission will in any way result in the proceeds of any Loans being applied in a manner other than as provided in the Indenture.

Section 6.14. Limitation on Additional Debt. So long as any Senior Bonds are Outstanding, the Borrower will not issue any bonds or obligations payable from Revenues or secured by a pledge, lien or charge upon Revenues prior to or on a parity with the Senior Bonds, the Parity

Payment Agreements and the Credit Agreement Payments, other than the Senior Bonds, the Parity Payment Agreements and the Credit Agreement Payments. [On or prior to the date on which Debt secured by the Revenues is to be issued or incurred, the Bank shall receive certification from a Borrower Representative as to compliance with all debt service coverage ratios that are required to be satisfied as a condition precedent to the issuance or incurrence of said Debt.]<sup>5</sup>

*Section 6.15. Related Documents.* The Borrower shall not modify, amend or consent to any modification, amendment or waiver in any material respect of any Related Document without the prior written consent of the Bank.

Section 6.16. Liens. The Borrower shall not, directly or indirectly, incur, create or permit to exist any Lien on all or any part of the security provided by the Indenture that is senior to or on a parity with the Lien securing the Bonds [and the Obligations], other than (a) Liens created under and in accordance with the terms of the Indenture; (b) the Liens created for the benefit of the Bonds [and the Obligations] and other Parity Debt that has heretofore or may hereafter be issued; and (c) Liens which could not reasonably be expected to materially adversely affect the interests, rights, remedies or security of the Bank under this Agreement and the other Related Documents.

*Section 6.17. Disclosure to Participants.* The Borrower shall permit the Bank to disclose the financial information received by it pursuant to this Agreement to each Participant of the Bank pursuant to Section 8.07 of this Agreement, subject to confidentiality restrictions and use restrictions customary for financial institutions.

Section 6.18. Other Agreements. In the event that the Borrower shall, directly or indirectly, enter into or otherwise consent to any Bank Agreement which such Bank Agreement provides such Person with different or more restrictive covenants, different or additional events of default and/or greater rights and remedies than are provided to the Bank in this Agreement, the Borrower shall provide the Bank with a copy of each such Bank Agreement and such different or more restrictive covenants, different or additional events of default and/or greater rights and remedies to be incorporated into this Agreement and the Bank shall have the benefits of such different or more restrictive covenants, different or additional events of default and/or greater rights and remedies as if specifically set forth herein. The Borrower shall promptly enter into an amendment to this Agreement to include different or more restrictive covenants, different or additional events of default and/or greater rights and remedies; *provided* that the Bank shall have and maintain the benefit of such different or more restrictive covenants, different or additional events of default and/or greater rights and remedies; *provided* that the Bank shall have and maintain the benefit of such different or more restrictive covenants, different or additional events of default and/or greater rights and remedies; *provided* that the Bank shall have and maintain the benefit of such different or more restrictive covenants, different or additional events of default and/or greater rights and remedies; *provided* that the Bank shall have and maintain the benefit of such different or more restrictive covenants, different or additional events of default and/or greater rights and remedies; *provided* that the Bank shall have and maintain the benefit of such different or more restrictive covenants, different or additional events of default and/or greater rights and remedies; *provided* that the Bank shall have and maintain the benefit of such different or more restrictiv

*Section 6.19. Immunity from Jurisdiction.* To the fullest extent permitted by applicable Law, with respect to its obligations arising under this Agreement or any other Related Document, the Borrower irrevocably agrees that it will not assert or claim any immunity on the grounds of sovereignty or other similar grounds (including, without limitation, governmental immunity) from

<sup>5</sup> 

To be determined. Indenture does not seem to provide for an ABT.

(i) any action, suit or other proceedings arising under or relating to this Agreement or any other Related Document, (ii) relief by way of injunction, order for specific performance or writ of mandamus or (iii) execution or enforcement of any judgment to which it or its revenues might otherwise be entitled in any such action, suit or other proceeding, and the Borrower hereby irrevocably waives, to the fullest extent permitted by applicable Law, with respect to itself and its Revenues (irrespective of their use or intended use), all such immunity.

Section 6.20. Swap Agreements. Without the prior written consent of the Bank, the Borrower will not enter into any Swap Agreement relating to Debt (a) wherein any termination payments thereunder are senior to or on parity with the payment of the Bonds or the other Obligations or (b) which requires the Borrower to post cash collateral to secure its obligations thereunder.

Section 6.21. Use of Bank's Name. The Borrower shall not include any information concerning the Bank in any offering document that is not supplied in writing, or otherwise approved, by the Bank expressly for inclusion therein.

*Section 6.22. Investment Policy.* All investments of the Borrower have been and will be made in accordance with the terms of the Investment Policy.

Section 6.23. Environmental Laws. The Borrower shall comply with all applicable Environmental Laws and cure any defect thereto (or cause other Persons to cure any such defect) to the extent necessary to bring such real property owned, leased, occupied or operated by the Borrower back into compliance with Environmental Laws and to comply with any cleanup orders issued by a Governmental Authority having jurisdiction thereover. The Borrower shall at all times use commercially reasonable efforts to render or maintain any real property owned, leased, occupied or operated by the Borrower safe and fit for its intended uses. The Borrower shall also immediately notify the Bank of any actual or alleged material failure to so comply with or perform, or any material breach, violation or default under any Environmental Law.

Section 6.24. Federal Reserve Board Regulations. The Borrower shall not use any portion of the proceeds of the Loans for the purpose of carrying or purchasing any Margin Stock and shall not incur any Debt which is to be reduced, retired or purchased by the Borrower out of such proceeds.

Section 6.25. Underlying Rating. The Borrower shall at all times maintain a rating on its long-term unenhanced Parity Debt from at least **[one]** Rating **[from S&P]**. The Borrower covenants and agrees that it shall not at any time withdraw any long-term unenhanced rating on its Parity Debt from any of **[Fitch, Moody's or S&P]** if the effect of such withdrawal would be to cure a Default or an Event of Default under this Agreement. Further, such rating shall not be older than twenty-four (24) months or shall not be considered current based on the Rating Agencies' definition of current ratings.

*Section 6.26.* Sanctions. (a) The Borrower shall not, directly or indirectly, use any Loan or the proceeds of any Loan, or lend, contribute or otherwise make available such Loan or the proceeds of any Loan to any Person, to fund any activities of or business with any Person, that, at

the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any Person (including any Person participating in the transaction, whether as the Bank or otherwise) of Sanctions. The Borrower will maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries, and its trustee, officers, employees, and agents with applicable Sanctions.

(b) *Anti-Corruption Laws*. The Borrower shall not, directly or indirectly, use any Loan or the proceeds of any Loan for any purpose which would breach the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other anti-corruption legislation in any other jurisdiction. The Borrower will maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries, and its trustee, officers, employees, and agents with anti-corruption legislation.

## SECTION 7. EVENTS OF DEFAULT AND REMEDIES.

*Section 7.1. Events of Default.* The occurrence of any of the following events (whatever the reason for such event and whether voluntary, involuntary, or effected by operation of Law) shall be an *"Event of Default"* hereunder, unless waived in writing by the Bank:

(a) the Borrower shall fail to pay the principal of or interest on any Loan when due;

(b) the Borrower shall fail to pay any Obligation when due (other than the obligation to pay the principal of or interest on Loans) and such failure shall continue for 3 Business Days;

(c) any representation or warranty made by or on behalf of the Borrower in this Agreement or in any other Related Document or in any certificate or statement delivered hereunder or thereunder shall be incorrect or untrue in any material respect when made or deemed to have been made or delivered;

(d) the Borrower shall default in the due performance or observance of any of the covenants set forth in Section 6.1, 6.5, 6.7, 6.8, 6.9, 6.10, 6.11, 6.12, 6.13, 6.14, 6.15, 6.16, 6.18, 6.19, 6.20, 6.21, 6.24, 6.25, or 6.26 hereof; or

(e) the Borrower shall default in the due performance or observance of any other term, covenant or agreement contained in this Agreement or any other Related Document and such default shall remain unremedied for a period of thirty (30) days after the occurrence thereof;

(f) the Borrower shall (i) have entered involuntarily against it an order for relief under the United States Bankruptcy Code, as amended, (ii) become insolvent or shall not pay, or be unable to pay, or admit in writing its inability to pay, its debts generally as they become due, (iii) make an assignment for the benefit of creditors, (iv) apply for, seek, consent to, or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its Property, (v) institute any proceeding seeking to have entered against it an order for relief under the United States Bankruptcy Code, as amended, to adjudicate it insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, marshalling of assets, adjustment or composition of it or its debts under any Law relating to bankruptcy, insolvency or reorganization or relief of debtors or fail to file an answer or other pleading denying the material allegations of any such proceeding filed against it, (vi) take any corporate action in furtherance of any matter described in parts (i) through (v) above, or (vii) fail to contest in good faith any appointment or proceeding described in Section 7.1(g) of this Agreement;

(g) a custodian, receiver, trustee, examiner, liquidator or similar official shall be appointed for the Borrower or any substantial part of its Property, or a proceeding described in Section 7.1(f)(v) shall be instituted against the Borrower and such proceeding continues undischarged or any such proceeding continues undismissed or unstayed for a period of thirty (30) or more days;

(h) a debt moratorium, debt restructuring, debt adjustment or comparable restriction is imposed on the repayment when due and payable of the principal of or interest on any Debt of the Borrower by the Borrower or any Governmental Authority with appropriate jurisdiction;

(i) any material provision of any of the Related Documents shall cease to be valid and binding, or the Borrower or any Governmental Authority shall contest any such provision or the Borrower or any agent or trustee on behalf of the Borrower, shall deny that it has any or further liability under any of the Related Documents;

(j) dissolution or termination of the existence of the Borrower;

(k) the Borrower shall (i) default on the payment of the principal of or interest on any Parity Debt, beyond the period of grace, if any, provided in the instrument or agreement under which such Parity Debt was created or incurred; or (ii) default in the observance or performance of any agreement or condition relating to any Parity Debt or contained in any instrument or agreement evidencing, securing or relating thereto, or any other default, event of default or similar event shall occur or condition exist, the effect of which default, event of default or similar event or condition is to permit (determined without regard to whether any notice is required) any such Parity Debt to become immediately due and payable in full as the result of the acceleration, mandatory redemption or mandatory tender of such Parity Debt;

(1) any final, unappealable judgment or judgments, writ or writs or warrant or warrants of attachment, or any similar process or processes, which are not covered in full by insurance, with written acknowledgement of such coverage having been provided by the provider of such insurance coverage to the Bank, in an aggregate amount in excess of [\$\_\_\_\_] shall be entered or filed against the Borrower or against any of its Property and remain unpaid, unvacated, unbonded or unstayed for a period of thirty (30) days;

(m) any "event of default" under any Related Document (as defined respectively therein) shall have occurred; or

(n) any of Fitch, Moody's and S&P shall have downgraded its rating

*Section 7.2. Consequences of an Event of Default.* If an Event of Default specified in Section 7.1 hereof shall occur and be continuing, the Bank may take one or more of the following actions at any time and from time to time (regardless of whether the actions are taken at the same or different times):

(i) by written notice to the Borrower, terminate the Commitment and all other obligations of the Bank hereunder and declare the outstanding amount of the Obligations under this Agreement and any accrued interest thereon to be immediately due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived, and an action therefor shall immediately accrue;

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

(iii) cure any Default, Event of Default or event of nonperformance hereunder or under any Related Document; *provided, however,* that the Bank shall have no obligation to effect such a cure; and

(iv) exercise, or cause to be exercised, any and all remedies as it may have under the Related Documents (other than as provided for in clause (ii) of this Section 7.2) and as otherwise available at law and at equity.

Notwithstanding Sections 7.2(i)-(iv) hereof, upon the occurrence of any Event of Default set forth in Section 7.1(f) or 7.1(g) hereof, the Commitment shall automatically and without notice terminate and the obligation of the Bank to make Loans shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, in each case without further act of the Bank.

Section 7.3. Remedies Cumulative; Solely for the Benefit of Bank. To the extent permitted by, and subject to the mandatory requirements of, applicable Law, each and every right, power and remedy herein specifically given to the Bank in the Related Documents shall be cumulative, concurrent and nonexclusive and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy (whether specifically herein given or otherwise existing) may be

exercised from time to time and as often and in such order as may be deemed expedient by the Bank, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy.

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

*Section 7.4. Waivers or Omissions.* No delay or omission by the Bank in the exercise of any right, remedy or power or in the pursuit of any remedy shall impair any such right remedy or power or be construed to be a waiver of any default on the part of the Bank or to be acquiescence therein. No express or implied waiver by the Bank of any Event of Default shall in any way be a waiver of any future or subsequent Event of Default.

Section 7.5. Discontinuance of Proceedings. In case the Bank shall proceed to invoke any right, remedy or recourse permitted hereunder or under the Related Documents and shall thereafter elect to discontinue or abandon the same for any reason, the Bank shall have the unqualified right so to do and, in such event, the Borrower and the Bank shall be restored to their former positions with respect to the Obligations, the Related Documents and otherwise, and the rights, remedies, recourse and powers of the Bank hereunder shall continue as if the same had never been invoked.

SECTION 8. CHANGE IN CIRCUMSTANCES.

Section 8.1. Net of Taxes, Etc.

Payments Free of Taxes. Any and all payments to the Bank by the Borrower (a) hereunder shall be made free and clear of and without withholding or deduction for any and all Indemnified Taxes. If the Borrower shall be required by law to withhold or deduct any Indemnified Taxes imposed by the United States or any political subdivision thereof from or in respect of any sum payable hereunder to the Bank, then (i) the sum payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 8.1), the Bank receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions and (iii) the Borrower shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law. If the Borrower shall make any payment under this Section 8.1 to or for the benefit of the Bank with respect to Indemnified Taxes and if the Bank shall claim any credit or deduction for such Indemnified taxes against any other taxes payable by the Bank to any taxing jurisdiction in the United States then the Bank shall pay to the Borrower an amount equal to the amount by which such other taxes are actually reduced; provided, that the aggregate amount payable by the Bank pursuant to this sentence shall not exceed the aggregate amount previously paid by the Borrower with respect to such Indemnified Taxes. In addition, the Borrower agrees to pay any present or future stamp, recording or documentary taxes and any other excise or property taxes, charges or similar levies that arise under the laws of the

United States of America or any state of the United States from any payment made hereunder or otherwise with respect to this Agreement, excluding, however, taxes imposed on or measured by the net income or capital of the Bank by any jurisdiction or any political subdivision or taxing authority thereof or therein, solely as a result of a connection between the Bank and such jurisdiction or political subdivision (hereinafter referred to as "*Other Taxes*"). The Bank shall provide to the Borrower within a reasonable time a copy of any written notification it receives with respect to Indemnified Taxes or Other Taxes owing by the Borrower to the Bank hereunder, including with respect to refunds and credits; provided, that the Bank's failure to send such notice shall not relieve the Borrower of its obligation to pay such amounts hereunder.

(b) The Borrower shall, to the fullest extent permitted by law and subject to the provisions hereof, pay the Bank for the full amount of Indemnified Taxes and Other Taxes including any Indemnified Taxes or Other Taxes imposed by any jurisdiction on amounts payable under this Section 8.1 paid by the Bank or any liability (including penalties, interest and expenses) arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally asserted; provided, that the Borrower shall not be obligated to pay the Bank for any penalties, interest or expenses relating to Indemnified Taxes or Other Taxes arising from the Bank's gross negligence or willful misconduct. The Bank agrees to give notice to the Borrower of the assertion of any claim against the Bank relating to such Indemnified Taxes or Other Taxes as promptly as is practicable after being notified of such assertion; provided, that the Bank's failure to notify the Borrower promptly of such assertion shall not relieve the Borrower of its obligation under this Section 8.1. Payments by the Borrower pursuant to this subsection (b) shall be made within 30 days from the date the Bank makes written demand therefor, which demand shall be accompanied by a certificate describing in reasonable detail the basis thereof. The Bank agrees to repay to the Borrower any refund or the amount of any credit (including that portion of any interest that was included as part of such refund or credit) with respect to Taxes or Other Taxes paid by the Borrower pursuant to this Section 8.1 received by the Bank for Indemnified Taxes or Other Taxes that were paid by the Borrower pursuant to this Section 8.1 and to contest, with the cooperation and at the expense of the Borrower, any such Indemnified Taxes or Other Taxes which the Bank or the Borrower reasonably believes not to have been properly assessed.

(c) Within 30 days after the date of any payment of Indemnified Taxes by the Borrower, the Borrower shall furnish to the Bank the original or a certified copy of a receipt evidencing payment thereof.

(d) Without prejudice to the survival of any other agreement of the Borrower hereunder, the agreements and obligations contained in this Section shall survive the termination of this Agreement and the payment in full of the Loans, and the obligations of the Borrower thereunder and hereunder.

Section 8.2. Increased Cost.

(a) *Increased Costs Generally*. If, on or after the Closing Date, there occurs any Change in Law which:

(i) impose, modify or deem applicable any reserve, liquidity ratio, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or advances, loans or other credit extended or committed to or participated in by, the Bank or any Participant;

(ii) subject the Bank or any Participant or the parent or holding company, if any, of any of the foregoing to any Taxes (other than Excluded Taxes) of any kind whatsoever with respect to this Agreement or any Loan, or change the basis of taxation of payments to the Bank or any Participant or the parent or holding company, if any, of any of the foregoing in respect thereof (except for Indemnified Taxes covered by Section 8.1 hereof and the imposition of, or any change in the rate of any Excluded Tax payable by the Bank or any Participant or the parent or holding company, if any, of any of the foregoing); or

(iii) impose on the Bank or any Participant or the parent or holding company, if any, of any of the foregoing, any other condition, cost or expense affecting this Agreement or any Loan, or the issuance or maintenance of Loans or any security therefor, or reduces any amount receivable by the Bank or any Participant with respect to this Agreement or any Loans, or requires the Bank or any Participant to make any payment calculated by reference to any amount received with respect to this Agreement or any Loans, or any funding of any Loan, by an amount deemed material by Bank or the Participant, as the case may be;

and the result of any of the foregoing shall be to increase the cost to the Bank or such Participant or its parent or holding company, if any, with respect to this Agreement or any Loans, or of participating the same, or to reduce the amount of any sum received or receivable by the Bank or such Participant or its parent or holding company, if any, hereunder, then, upon written request of the Bank or such Participant as set forth in subsection (d) below, the Borrower shall promptly pay to the Bank or such Participant or its parent or holding company, if any, as the case may be, such additional amount or amounts as will compensate the Bank or such Participant or its parent or holding company, if any, as the case may be, for such additional costs incurred or reduction suffered but only for so long as such additional costs are being incurred by the Bank or so long as such reduction exists.

(b) If the Bank or any Participant determines the amount of capital or liquidity required or expected to be maintained by the Bank or the Participant or any parent, holding company or entity controlling the Bank or such Participant is increased as a result of (i) a Change in Law or (ii) any change on or after the Closing Date in the Risk-Based Capital Guidelines, then, within 30 days of demand by the Bank or the Participant, the Borrower, to the extent permitted by law, pay such Bank or Participant the amount necessary to compensate for any shortfall in the rate of return (but only for so long as such shortfall of rate of return exists) on the portion of such increased

capital or liquidity which the Bank or the Participant determines is attributable to this Agreement or any Loan, as the case may be, hereunder (after taking into account the policies of the Bank or the Participant as to capital adequacy and liquidity).

(c) A certificate of the Bank or any Participant setting forth the amount or amounts necessary to compensate the Bank or such Participant or the Bank's or such Participant's parent or holding company, as the case may be, as specified in subsection (a) or (b) above and delivered to the Borrower, shall be conclusive absent manifest error. The Borrower shall pay the Bank or such Participant, as the case may be, the amount shown as due on any such certificate within 30 days after receipt thereof.

(d) Failure or delay on the part of the Bank or any Participant to demand compensation pursuant to this Section 8.2 shall not constitute a waiver of the right of such Bank or Participant to demand such compensation.

(e) Without prejudice to the survival of any other agreement of the Borrower hereunder, the agreements and obligations of the Borrower contained in this Section 8.2 shall survive the termination of this Agreement and the payment in full of the Obligations.

Section 8.3. Lending Offices. The Bank may, at its sole option, elect to make its Loans hereunder at the branch, office or Affiliate specified on the signature page hereof (each a "Lending Office") for each type of Loan available hereunder or at such other of its branches, offices or Affiliates as it may from time to time elect and designate in a written notice from the Bank to the Borrower; provided, however, that if such election and designation shall increase any amount payable to the Bank pursuant to Section 8.1 or 8.2 hereof, then such election and designation shall require the Borrower's written consent.

Section 8.4. Discretion of Bank as to Manner of Funding. Notwithstanding any other provision of this Agreement, the Bank shall be entitled to fund and maintain its funding of all or any part of its Loans in any manner it sees fit.

## SECTION 9. MISCELLANEOUS.

Section 9.1. Withholding Taxes. Any and all payments of principal, interest, fees and other sums due hereunder shall be made in the amount required hereunder without any reduction, deduction or setoff, notwithstanding the assertion of any right of recoupment or setoff or of any counterclaim by the Borrower, and without any withholding on account of taxes, levies, duties or any other deduction whatsoever. Without prejudice to the survival of any other agreement of the Borrower hereunder, the agreements and obligations of the Borrower contained in this Section shall survive the termination of this Agreement and the payment in full of the obligations of the Borrower hereunder.

Section 9.2. No Waiver of Rights. No delay or failure on the part of the Bank in the exercise of any power or right under any Related Document shall operate as a waiver thereof, nor as an acquiescence in any Default or Event of Default, nor shall any single or partial exercise thereof preclude any other or further exercise of any other power or right, and the rights and

remedies hereunder of the Bank are cumulative to, and not exclusive of, any rights or remedies which it would otherwise have.

*Section 9.3.* Non-Business Day. If any payment of principal or interest on any Loan or of any other Obligation shall fall due on a day which is not a Business Day, interest or fees (as applicable) at the rate, if any, such Loan or other Obligation bears for the period prior to maturity shall continue to accrue on such Obligation from the stated due date thereof to and including the next succeeding Business Day, on which the same shall be payable.

*Section 9.4. Documentary Taxes.* The Borrower agrees that it will pay any documentary, stamp or similar taxes payable in respect to any Related Document, including interest and penalties, in the event any such taxes are assessed, irrespective of when such assessment is made and whether or not any credit is then in use or available hereunder.

Section 9.5. Survival of Representations. All representations and warranties made herein or in certificates given pursuant hereto shall survive the execution and delivery of this Agreement and the other Related Documents, and shall continue in full force and effect with respect to the date as of which they were made as long as any credit is in use or available hereunder. All covenants and agreements of the Borrower contained herein shall continue in full force and effect from and after the date hereof until the Obligations have been fully discharged.

*Section 9.6.* Survival of Indemnities. All indemnities and all other provisions relative to reimbursement to the Bank of amounts sufficient to protect the yield of the Bank with respect to the Loans, including, but not limited to, Sections 8.1, 8.2, 9.1 and 9.11 hereof, shall survive the termination of this Agreement and the other Related Documents and the payment of the Loans and all other Obligations.

Section 9.7. Notices. Except as otherwise provided herein, any notice required or permitted to be given under this Agreement shall be in writing (which includes communications by telex or telecopier if confirmed by the appropriate answer back and followed by hard copy delivered by United States mail in the manner described herein) addressed:

to the Borrower as follows:

Guam Waterw	vorks Authority
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Attention:	
<b>Felephone:</b>	
Facsimile:	
Email:	]

to the Bank as follows:

Royal Bank of Canada

[	-
Attention:	_
<b>Telephone:</b>	
Facsimile:	
Email:	]

with a copy to:

Royal Bank of Canada	
[	_
	_
Attention:	
Telephone:	
Facsimile:	
Email:	1

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). The Bank may rely on any notice (including telephone communication) purportedly made by or on behalf of the other, and shall have no duty to verify the identity or authority of the Person giving such notice, unless such actions or omissions would amount to gross negligence or intentional misconduct.

(b) *Bank's Office*. The Bank hereby designates its office located at the address set forth above, or any subsequent office which shall have been specified for such purpose by written notice to the Borrower, as the Bank's Lending Office referred to herein, to which payments due are to be made and at which Loans will be disbursed.

(c) *Change of Address, Etc.* Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

Section 9.8. Counterparts. This Agreement may be executed in any number of counterpart signature pages, and by the different parties on different counterparts, each of which when executed shall be deemed an original but all such counterparts taken together shall constitute one and the same instrument. The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties agree that any electronically signed document (including this Agreement) shall be deemed (i) to be "written" or "in writing," (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or "printouts," if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the

admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule. For purposes hereof, "electronic signature" means a manually-signed original signature that is then transmitted by electronic means; "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a "pdf" (portable document format) or other replicating image attached to an e-mail message; and, "electronically signed document" means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature.

## Section 9.9. Successors and Assigns; Participations.

(a) Successors and Assigns Generally. This provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Bank and the Bank may not assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (c) of this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (d) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (c) of this Section and, to the extent expressly contemplated hereby, the Related Parties of the Bank) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by the Bank. The Bank may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it); provided any such assignment shall be subject to the following conditions:

(i) *Minimum Amounts*. The Commitment subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is entered into or shall not be less than \$5,000,000 unless, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed);

(ii) *Proportionate Amounts*. Each partial assignment shall be made as an assignment of a proportionate part of all the Bank's rights and obligations under this Agreement with respect to the Commitment and Loans assigned;

(iii) *Required Consents.* No consent shall be required for any assignment except the consent of the Borrower shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or, (2) such assignment is to an Affiliate of the Bank;

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver an Assignment and Assumption agreement in a form reasonably satisfactory to the Bank and its counsel (each an "Assignment and Assumption").

(v) *No Assignment to Natural Persons*. No such assignment shall be made to a natural person.

From and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of the Bank under this Agreement, and the Bank shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the Bank's rights and obligations under this Agreement, the Bank shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 8.2 and 9.11 hereof with respect to facts and circumstances occurring prior to the effective date of such assignment. Any assignment or transfer by the Bank of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by the Bank of a participation in such rights and obligations in accordance with subsection (c) of this Section.

(c) *Participations*. The Bank may at any time, without the consent of or notice to the Borrower, sell participations to any Person (other than a natural person or the Borrower or any of the Borrower's Affiliates) (each, a "Participant") in all or a portion of the Bank's rights and/or obligations under this Agreement, and such Participants shall be entitled to the benefits of this Agreement, including, without limitation, Sections 8.2 and 9.11 hereof, to the same extent as if they were a direct party hereto; provided that (i) the Bank's obligations under this Agreement shall remain unchanged, (ii) the Bank shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower shall continue to deal solely and directly with the Bank in connection with the Bank's rights and obligations under this Agreement. Any agreement or instrument pursuant to which the Bank sells such a participation shall provide that the Bank shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 8.2 and 9.11 hereof to the same extent as if it were the Bank; provided, however, that no Participant shall be able to impose costs pursuant to Section 9.11(a) hereof in excess of what the Bank would have been able to impose if no such participation would have been undertaken.

(d) *Certain Pledges*. The Bank may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under the Bonds) to secure obligations of the Bank, including any pledge or assignment to secure obligations to a Federal Reserve Bank or the United States Treasury; *provided* that no such pledge or assignment shall release the Bank from any of its obligations hereunder or substitute any such pledgee or assignee for the Bank as a party hereto.

Section 9.10. Amendments, Waivers and Consents. Any term, covenant, agreement or condition of this Agreement or any of the other Related Documents may be amended or waived

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by the Bank, and any consent given by the Bank, if, but only if, such amendment, waiver or consent is in writing signed by the Bank, at the direction or with the consent of the Bank and the Borrower; *provided, however*, that no amendment, waiver or consent shall, unless in writing and signed by the Bank, affect the rights or duties of the Bank under this Agreement or any other Related Document.

#### Section 9.11. Expenses; Indemnity.

(a) *Costs and Expenses.* The Borrower shall pay (i) all actual and reasonable out of pocket expenses incurred by the Bank and its Affiliates (including the actual and reasonable fees, charges and disbursements of counsel for the Bank, plus disbursements), and shall pay all fees and time charges and disbursements for attorneys who may be employees of the Bank, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Related Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), and (ii) all actual and reasonable out of pocket expenses incurred by the Bank (including the fees, charges and disbursements of any counsel for the Bank), and shall pay all fees and time charges for attorneys who may be employees of the Bank, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Related Documents, including its rights under this Section, or (B) in connection with the Loans made, including all such out of pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans.

(b) Indemnification by the Borrower. The Borrower shall indemnify the Bank and its Related Parties (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, and shall pay or reimburse any such Indemnitee for, any and all losses, claims (including, without limitation, any environmental claims), damages, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless, each Indemnitee from, and shall pay or reimburse any such Indemnitee for, all fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Borrower), other than such Indemnitee and its Related Parties, arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Related Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) any Loan or the use or proposed use of the proceeds therefrom, (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrower or any Subsidiary thereof, or any environmental claim related in any way to the Borrower, (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower, and regardless of whether any Indemnitee is a party thereto, or (v) any claim (including, without limitation, any environmental claims), investigation, litigation or other proceeding (whether or not the Bank is a party thereto) and the prosecution and defense thereof, arising out of or in any way connected with the Loans, this Agreement, any other Related Document, or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby, including without

limitation, reasonable attorneys and consultant's fees, *provided* that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Borrower or any Subsidiary thereof against an Indemnitee for breach which breach constitutes gross negligence or willful misconduct of such Indemnitee of such Indemnitee's obligations hereunder or under any other Related Document, if the Borrower or such Subsidiary has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. The Indemnitee will use commercially reasonable efforts to notify the Borrower within 30 days of its obtaining actual knowledge of any claim or event occurring after the date hereof that would entitle such Indemnitee to indemnification pursuant to this Section; *provided* that the failure of such Indemnitee to notify the Borrower within such 30-day period shall not relieve the Borrower from any liability for payment of such indemnification.

(c) *Waiver of Consequential Damages, Etc.* To the fullest extent permitted by Applicable Law, the Borrower and the Bank each agree that it shall not assert, and hereby waives, any claim against any Indemnitee in the case of the Borrower and against the Borrower in the case of any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Related Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof. No Indemnitee referred to in clause (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Related Documents or the transactions contemplated hereby.

(d) *Payments*. All amounts due under this Section shall be payable promptly after demand therefor.

(e) *Survival*. Each party's obligations under this Section shall survive the termination of the Related Documents and payment of the obligations hereunder.

Section 9.12. Headings. Section headings used in this Agreement are for reference only and shall not affect the construction of this Agreement.

Section 9.13. No Implied Waiver; Cumulative Remedies. No course of dealing and no delay or failure of the Bank in exercising any right, power or privilege under this Agreement or the other Related Documents shall affect any other or future exercise thereof or exercise of any right, power or privilege; nor shall any single or partial exercise of any such right, power or privilege or any abandonment or discontinuance of steps to enforce such a right, power or privilege preclude any further exercise thereof or of any other right, power or privilege. The rights and remedies of the Bank under this Agreement are cumulative and not exclusive of any rights or remedies which the Bank would otherwise have under any Related Document, at law or in equity.

Section 9.14. Entire Agreement. The Related Documents constitute the entire understanding of the parties thereto with respect to the subject matter thereof and any prior or contemporaneous agreements, whether written or oral, with respect thereto are superseded thereby.

Section 9.15. Construction. The parties hereto acknowledge and agree that neither this Agreement nor the other Related Documents shall be construed more favorably in favor of one than the other based upon which party, drafted the same, it being acknowledged that *all* parties hereto contributed substantially to the negotiation of this Agreement and the other Related Documents.

*Section 9.16. Choice of Law; Submission to Jurisdiction.* (a) This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York without giving effect to conflicts of laws provisions.

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

Section 9.17. Waiver of Venue. The Borrower and the Bank irrevocably and unconditionally waive, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Agreement or any other Related Document in any court referred to in clause (a) of this section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

Section 9.18. Waiver of Jury Trial. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, EACH OF THE PARTIES HERETO HEREBY WAIVES ITS RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, THE RELATED DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS.

(b) The covenants and waivers made pursuant to Section 9.16, 9.17 and this Section 9.18 shall be irrevocable and unmodifiable, whether in writing or orally, and shall be applicable to any subsequent amendments, renewals, supplements or modifications of this Agreement. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

Section 9.19. USA PATRIOT Act Notice. The Bank hereby notifies the Borrower that pursuant to the requirements of the Patriot Act it is required to obtain, verify and record

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information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow the Bank to identify the Borrower in accordance with the Patriot Act. The Borrower hereby agrees that it shall promptly provide such information upon request by the Bank.

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

Section 9.20. Reversal of Payment. To the extent the Borrower makes a payment or payments to the Bank or the Bank receives any payment or proceeds which payments or proceeds or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds repaid, the Obligations or part thereof intended to be satisfied shall be revived and continued in full force and effect as if such payment or proceeds had not been received by the Bank.

*Section 9.21. Prior Understandings.* This Agreement and the other Related Documents supersede all other prior understandings and agreements, whether written or oral, among the parties hereto relating to the transactions provided for herein and therein.

Section 9.22. Treatment of Certain Information; Confidentiality. The Bank agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential); (b) to the extent required or requested by, or required to be disclosed to, any rating agency, or regulatory or similar authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners); (c) to the extent required by Applicable Laws or regulations or by any subpoena or similar legal process; (d) to any other party hereto, in connection with the exercise of any remedies under this Agreement, under any other Related Document, or any action or proceeding relating to this Agreement, any other Related Document, or the enforcement of rights hereunder or thereunder; (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder; provided that any such assignee, Participant, prospective assignee, prospective Participant, or actual or prospective party (or Related Party) will be informed of the confidential nature of such Information and instructed to

keep such Information confidential in accordance with the terms of this Section; (g) on a confidential basis to (i) any rating agency in connection with rating the Borrower or its Subsidiaries or the Credit Facility or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the Credit Facility; (h) with the consent of the Borrower; (i) to Gold Sheets and other similar bank trade publications, such information to consist of deal terms and other information customarily found in such publications, provided that such disclosure shall only be made with the consent of the Borrower; (i) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Bank or any of its respective Affiliates on a nonconfidential basis from a source other than the Borrower; or (k) to governmental regulatory authorities in connection with any regulatory examination of the Bank or in accordance with the Bank's regulatory compliance policy if the Bank deems necessary for the mitigation of claims by those authorities against the Bank or any of its subsidiaries or Affiliates. For purposes of this Section, "Information" means all information received from the Borrower or any Subsidiary thereof relating to the Borrower or any Subsidiary thereof or any of their respective businesses, other than any such information that is available to the Bank on a nonconfidential basis prior to disclosure by the Borrower or any Subsidiary thereof; provided that, in the case of information received from the Borrower or any Subsidiary thereof after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own Confidential Information.

Section 9.23. EMMA Postings. In the event the Borrower files with EMMA, this Agreement, any other Related Document, or any description of the material terms hereof or thereof or notice of any agreement to covenants, events of default, remedies, priority rights or other similar terms, either voluntarily or as required pursuant a continuing disclosure agreement or Rule 15c2-12 promulgated pursuant to the Securities and Exchange Act of 1934, as amended (the "Rule 15c2-12") (each such posting, an "EMMA Posting"), the Borrower shall (i) provide the Bank with a copy of each EMMA Posting prior to submitting or posting on EMMA and (ii) shall not file or permit the filing of any EMMA Posting that includes Confidential Information. The Borrower acknowledges and agrees that although the Bank may request review, edits or redactions of such materials prior to filing, the Bank is not responsible for the Borrower's or any other entity's (including, but not limited to, any broker-dealer's) compliance or noncompliance (or any claims, losses or liabilities arising therefrom) with any continuing disclosure agreement or any applicable securities or other laws, including, but not limited to, those relating to the Rule 15c2-12.

#### Section 9.24. US QFC Stay Rules.

(a) *Recognition of U.S. Resolution Regimes.* In the event that any party that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of this Agreement or any other Related Document (and any interest and obligation in or under this Agreement or any other Related Document and any property securing this Agreement) from such Covered Entity will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement or any other Related Document or any other Related Document (and any such interest, obligation and property) were governed by the laws of the United States or a state of the

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

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

(c) *Defined Terms*. As used in this Section 9.24:

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

"Covered Entity" means any of the following:

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

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

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

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

*"Insolvency Proceeding"* means a receivership, insolvency, liquidation, resolution, or similar proceeding.

*"U.S. Special Resolution Regime"* means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

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Right of Setoff. If an Event of Default shall have occurred and be continuing, Section 9.25. the Bank and its Affiliates are hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by the Bank or any such Affiliate to or for the credit or the account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing under this Agreement or any other Related Document to the Borrower or its Affiliates, irrespective of whether or not the Borrower or its Affiliates shall have made any demand under this Agreement or any other Related Document and although such obligations of the Borrower may be contingent or unmatured or are owed to a branch, office or any such Affiliate different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness. The rights of the Bank and its Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that the Bank or its Affiliates may have. The Bank agrees to notify the Borrower promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

Section 9.26. No Advisory or Fiduciary Responsibility. In connection with all aspects of the transactions contemplated by this Agreement and the Related Documents (including in connection with any amendment, waiver or other modification of this Agreement or of any Related Document), the Borrower acknowledges and agrees that: (a)(i) any arranging, structuring and other services regarding this Agreement and the Related Documents provided by the Bank or any Affiliate of the Bank are arm's length commercial transactions between the Borrower on the one hand, and the Bank and any Affiliate of the Bank on the other hand, (ii) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Agreement and the Related Documents; (b)(i) the Bank and each Affiliate of the Bank is and has been acting solely as a principal and has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower or any other Person and (ii) neither the Bank nor any Affiliate of the Bank has any obligation to the Borrower with respect to the transactions contemplated by this Agreement and the Related Documents, except those obligations expressly set forth herein; and (c) the Bank and each Affiliate of the Bank may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower, and neither the Bank nor any Affiliate of the Bank has any obligation to disclose any of such interests to the Borrower. To the fullest extent permitted by Applicable Laws, the Borrower hereby waives and release any claims that it may have against the Bank and each Affiliate of the Bank with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of the transactions contemplated by this Agreement and the Related Documents.

Section 9.27. Electronic Signatures. The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties agree that any electronically signed document (including this Agreement) shall be deemed (i) to be "written" or "in writing," (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or "printouts," if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original

business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to The hearsay rule. For purposes hereof, "electronic signature" means a manually-signed original signature that is then transmitted by electronic means; "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a "pdf" (portable document format) or other replicating image attached to an e-mail message; and, "electronically signed document" means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature.

[Signature Page to Follow]

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

GUAM WATERWORKS AUTHORITY

By:	
Name:	
Title:	

[Signature Page to RBC Revolving Credit Agreement] Exhibit B (Substitute)-062 ROYAL BANK OF CANADA

By:	
Name:	
Title:	

[Signature Page to RBC Revolving Credit Agreement] Exhibit B (Substitute)-063

#### Ехнівіт А

#### FORM OF NOTICE OF BORROWING

Date: \_\_\_\_\_, \_\_\_\_

Royal Bank of Canada

with a copy to:

Royal Bank of Canada

Ladies and Gentlemen:

This irrevocable Notice of Borrowing is delivered to you pursuant to Section 2.4 of that certain Revolving Credit Agreement dated as of [\_\_\_\_\_], 2025 (as amended, restated, supplemented or otherwise modified from time to time, the "*Credit Agreement*"), between Guam Waterworks Authority(the "*Borrower*") and Royal Bank of Canada, acting through a branch now located at 200 Vesey Street, New York, New York (together with its successors or assigns, the "*Bank*"). Capitalized terms used herein and not defined herein shall have the meanings assigned thereto in the Credit Agreement. The Borrower requests that the Bank make Loans to the Borrower as specified below:

1. The Business Day of the proposed borrowing is \_\_\_\_\_\_, \_\_\_\_.

2. The aggregate amount of the proposed borrowing is \$\_\_\_\_\_.

## 3. The Loan is to be comprised of \$\_\_\_\_\_\_ of [Daily Simple SOFR Loans][Base Rate Loans].

The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the date of the proposed borrowing, before and after giving effect thereto and to the application of the proceeds therefrom:

(a) the representations and warranties contained in Section 4 of the Credit Agreement are true and correct in all material respects; and

(b) no Default or Event of Default shall have occurred and be continuing on the date hereof or after giving effect to the Loans to be made on the date hereof.

WITNESS my hand on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**GUAM WATERWORKS AUTHORITY** 

Title: \_\_\_\_\_\_

#### Ехнівіт В

#### FORM OF NOTICE OF ACCOUNT DESIGNATION

Dated as of: \_\_\_\_\_, \_\_\_\_

Royal Bank of Canada

with a copy to:

Royal Bank of Canada

Ladies and Gentlemen:

This Notice of Account Designation is delivered to you pursuant to that certain Revolving Credit Agreement dated as of [\_\_\_\_], 2025 (as amended, restated, supplemented or otherwise modified from time to time, the "*Credit Agreement*"), between Guam Waterworks Authority(the "*Borrower*") and Royal Bank of Canada, acting through a branch now located at 200 Vesey Street, New York, New York (together with its successors or assigns, the "*Bank*"). Capitalized terms used herein and not defined herein shall have the meanings assigned thereto in the Credit Agreement.

1. The Bank is hereby authorized to disburse proceeds from Loans into the following account(s):

ABA Routing Number:	
Account Number:	
[City, State]	

2. This authorization shall remain in effect until revoked or until a subsequent Notice of Account Designation is provided to the Bank.

WITNESS my hand on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**GUAM WATERWORKS AUTHORITY** 

Title: \_\_\_\_\_

#### Ехнівіт С

#### FORM OF NOTICE OF PREPAYMENT

Royal Bank of Canada

with a copy to:

Royal Bank of Canada

Ladies and Gentlemen:

This irrevocable Notice of Prepayment is delivered to you pursuant to Section 2.5(c) of that certain Revolving Credit Agreement dated as of [\_\_\_\_\_], 2025 (as amended, restated, supplemented or otherwise modified from time to time, the "*Credit Agreement*"), between Guam Waterworks Authority(the "*Borrower*") and Royal Bank of Canada, acting through a branch now located at 200 Vesey Street, New York, New York (together with its successors or assigns, the "*Bank*"). Capitalized terms used herein and not defined herein shall have the meanings assigned thereto in the Credit Agreement.

1. The Borrower hereby gives notice that on \_\_\_\_\_, \_\_\_\_ it will make a prepayment under the Credit Agreement in the aggregate principal amount of \_\_\_\_\_\_ Dollars (\$\_\_\_\_\_\_).

2. The Loans and the amounts of such Loans to be prepaid are [check each applicable box and fill in the amount of each Loan being prepaid]

Daily Simple SOFR Loans (\$\_\_\_\_\_)

Base Rate Loans (\$\_\_\_\_\_)

WITNESS my hand on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**GUAM WATERWORKS AUTHORITY** 

Title: \_\_\_\_\_\_

#### EXHIBIT D

#### FORM OF NOTICE OF CONVERSION

Dated as of: \_\_\_\_\_

Royal Bank of Canada

with a copy to:

Royal Bank of Canada

Ladies and Gentlemen:

This irrevocable Notice of Conversion (this "*Notice*") is delivered to you pursuant to Section 2.4(c) of that certain Revolving Credit Agreement dated as of [\_\_\_\_], 2025 (as amended, restated, supplemented or otherwise modified from time to time, the "*Credit Agreement*"), between Guam Waterworks Authority (the "*Borrower*") and Royal Bank of Canada, acting through a branch now located at 200 Vesey Street, New York, New York (together with its successors or assigns, the "*Bank*"). Capitalized terms used but not defined herein shall have the respective meanings assigned thereto in the Credit Agreement.

This Notice is submitted for the purpose of: (Check one and complete applicable information in accordance with the Credit Agreement)

CONVERTING ALL OR A PORTION OF A BORROWING OF DAILY SIMPLE SOFR LOANS AS BASE RATE LOANS

Converting all or a portion of a borrowing of Base Rate Loans as Daily Simple SOFR Loans $^{6}$ 

6

Subject to Section 2.10 of the Credit Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Notice of Conversion on

\_\_, \_\_\_\_.

GUAM WATERWORKS AUTHORITY

By: \_\_\_\_\_\_ Name: \_\_\_\_\_\_ Title: \_\_\_\_\_

#### Ехнівіт Е

## FORM OF COMPLIANCE CERTIFICATE [\_\_\_\_QUARTER 20\_\_] [FISCAL YEAR END 20\_\_]

## Royal Bank of Canada

with a copy to:

Royal Bank of Canada

I am the chief financial officer of Guam Waterworks Authority (the "*Borrower*") and under the terms of that certain Revolving Credit Agreement dated as of [\_\_\_\_], 2025 (as amended, restated, supplemented or otherwise modified from time to time, the "*Credit Agreement*"), between the Bank and the Borrower, I certify that:

1. The attached financial statements of the Borrower from \_\_\_\_\_\_, 20\_\_\_ through \_\_\_\_\_\_, 20\_\_\_ are true and correct and have been accurately prepared in accordance with GAAP [and are fairly stated in all material respects (subject to normal year-end audit adjustments) consistently with the Borrower's most recent annual financial statement]; and

2. The undersigned has reviewed and is familiar with the terms of the Agreement and has made, or has caused to be made under his/her supervision, a review of the transactions and condition (financial or otherwise) of the Borrower during the accounting period covered by the attached financial statements.

3. A review of the activities of the Borrower during such fiscal period has been made under the supervision of the undersigned with a view to determining whether during such fiscal period the Borrower performed and observed all its Obligations under the Related Documents, and

#### [select one:]

[to the best knowledge of the undersigned during such fiscal period, the Borrower performed and observed each covenant and condition of the Related Documents applicable to it, and no Default or Event of Default has occurred and is continuing.]

--0r--

[the following covenants or conditions have not been performed or observed and the following is a list of each such Default or Event of Default and its nature and status:]

4. The representations and warranties of the Borrower contained in Section 4 of the Agreement are true and correct on and as of the date hereof, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, and except that for purposes of this Certificate, the representations and warranties contained in Section 4.4 of the Agreement shall be deemed to refer to the most recent statements furnished pursuant to Section 6.1(i)(a) of the Agreement, including the statements in connection with which this Certificate is delivered.

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

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of \_\_\_\_\_\_,

GUAM WATERWORKS AUTHORITY