ORDINANCE NO. 2026 - 90

AN ORDINANCE AMENDING ORDINANCE NO. 2026-51, AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ENTER INTO A LOAN AGREEMENT BETWEEN THE CITY OF KENT AND OHIO EPA FOR THE CONSTRUCTION OF THE WATER RECLAMATION FACILITY (WRF) INFLUENT HEADWORKS BUILDING PROJECT AND DECLARING AN EMERGENCY.

WHEREAS, the City of Kent would like to enter into a Loan Agreement with the OhioEPA for the construction of the Water Reclamation Facility (WRF) Influent Headworks Building; and

WHEREAS, the project will be funded through a loan from the OhioEPA's Division of Environmental and Financial Assistance (DEFA) for twenty (20) years and has a smaller administration fee (0.35%) than if the City were to go to a more transitional financing method; and

WHEREAS, the project will replace the treatment processes located at the "head" of the WRF where the sewage enters the facility.

WHEREAS, the dedicated source of repayment will be the Sanitary Sewer Fund.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kent, Portage County, Ohio:

SECTION 1. That Council does hereby authorize the City Manager, or his designee, to enter into a loan agreement between the City of Kent and the Ohio EPA for the construction of the WRF Influent Headworks Building project and is fully set forth in Exhibit "A", attached hereto and incorporated herein.

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of this City, for which reason and other reasons manifest to this Council this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: October 21, 2026
Date

Jack Amrhein
Mayor and President of Council

EFFECTIVE: October 21, 2026
Date

ATTEST: Kathleen Coleman
Kathleen Coleman
Clerk of Council

I, KATHLEEN COLEMAN, CLERK OF COUNCIL FOR THE CITY OF KENT, COUNTY OF PORTAGE, AND STATE OF OHIO, AND IN WHOSE CUSTODY THE ORIGINAL FILES AND RECORDS OF SAID COUNCIL ARE REQUIRED TO BE KEPT BY THE LAWS OF THE STATE OF OHIO, HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF *RESOLUTION NO.* 2026-90, ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON October 21, 2026.

(SEAL)

KATHLEEN COLEMAN
CLERK OF COUNCIL

WATER POLLUTION CONTROL LOAN FUND
EXTENDED-TERM BOND TRUST AGREEMENT

This Agreement made and entered into as of the "Effective Date," by and among the Director of Environmental Protection (the "Director"), as the Director of the Environmental Protection Agency of the State of Ohio, an agency duly created and existing under the laws of the State of Ohio, the Ohio Water Development Authority, a body corporate and politic organized and existing under the provisions of Chapter 6121 of the Ohio Revised Code (the "OWDA," and together with the Director, the "State"), and the governmental body specified as the "Issuer" on Exhibit 1, a governmental body organized and existing under the laws of the State of Ohio and acting pursuant to an ordinance or resolution passed by the legislative authority of the Issuer on the date specified on Exhibit 1 as the "Resolution Date" (the capitalized terms not defined in the recitals being as defined in Article I herein);

WITNESSETH:

WHEREAS, the OWDA has been created, among other reasons, to carry forward the declared public policy of the State of Ohio to preserve, protect, upgrade, conserve, develop, utilize and manage the water resources of the State, to prevent or abate the pollution of water resources, to promote the beneficial use of waters of the State for the protection and preservation of the public health, safety, convenience, and welfare, and the improvement of the economic welfare or employment opportunities of and the creation of jobs for the people of the State, or to assist and cooperate with other governmental agencies in achieving such purposes through the establishment, operation and maintenance of water development projects pursuant to Chapter 6121 of the Ohio Revised Code ("R.C."); and

WHEREAS, Title 33, Chapter 26, Subchapter VI of the Clean Water Act, as amended (the "CWA"), 33 U.S.C.A. § 1383 authorizes the Administrator of the United States Environmental Protection Agency to make capitalization grants to states which have established a state water pollution control revolving loan fund; and

WHEREAS, pursuant to the CWA, states can provide loans and other types of financial assistance from a water pollution control revolving loan fund to local communities, municipal or intermunicipal and interstate, or state agencies for the construction of publicly-owned wastewater treatment facilities as defined in Section 212 of the CWA, 33 U.S.C.A. 1292, and for the implementation of nonpoint source pollution control management programs and development and implementation of plans under the estuary protection programs, and can purchase or refinance at or below market rates of interest debt obligations incurred after March 7, 1985, by municipal corporations, other political subdivisions, and interstate agencies having territory in the state pursuant to R.C. Section6111.036(H)(2); and

WHEREAS, the Ohio General Assembly has created a water pollution control loan fund (the "WPCLF") pursuant to R.C. Section 6111.036 to provide loans and other types of financial assistance as set forth in said Section and, pursuant to R.C. Section 6111.036(H)(2), to purchase or refinance at or below market rates of interest debt obligations incurred after March 7, 1985, by municipal corporations, other political subdivisions, and interstate agencies having territory in the State; and

WHEREAS, to assist the Director (whenever the term "Director" is used herein, such term shall also be deemed to include the Director's designated representative(s), if any) in providing loans and other types of financial assistance from the WPCLF, and to assist in the administration and operation of the WPCLF as authorized by the R.C. Section 6111.036, the Director has entered into an Interagency Agreement with the OWDA and has annually entered into a renewal of that Agreement; and

WHEREAS, the Issuer is desirous of obtaining financing for necessary Project Facilities, using funds from the WPCLF; and

WHEREAS, the State is willing to provide financing to the Issuer for such Project Facilities, and the Director has determined that the Issuer has complied with the requirements of R.C. Section 6111.036, and is therefore eligible for the State's purchase of its debt obligation defined below as the "Bond" with moneys credited to the WPCLF under the CWA and said Section; and

WHEREAS, the Issuer has demonstrated to the satisfaction of the State that it has the capability to pay the Semi-Annual Payment over the Contract Period of Years from a dedicated source of revenue for bond repayments; and

WHEREAS, the State and the Issuer have determined to enter into this Agreement to set forth their respective obligations with respect to the purchase of the Bond and the construction, operation and ownership of the Project Facilities;

NOW THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereto do hereby agree as follows:

ARTICLE I - DEFINITIONS

Section 1.1. Except where the context clearly indicates otherwise, the following terms as used in this Agreement shall have the meaning ascribed to them in this Article:

(a) "Application Fee" means a charge levied and paid by the Issuer at the time of the execution of this Agreement to partially offset administrative costs of the Agreement. This fee is not an Eligible Project Cost and is in addition to the Semi-Annual Payment. The fee is calculated at thirty-five hundredths of one percent (.35%) of the estimated Eligible Project Costs, or four hundred dollars ($400.00), whichever is the greater.

(b) "Approved Application" means the application submitted to the Director on the date shown on Exhibit 1 as the "Application Date," together with all attachments, supporting documentation, amendments and supplements thereto as approved by the State, together with any amendments thereto approved by the Issuer and the State after the date of this Agreement.

(c) "Bond" means the Issuer's Wastewater System Subordinated Revenue Bond to which this Trust Agreement is attached and into which it is incorporated in its entirety.

(d) "Bond Purchase Price" means the aggregate amount paid by the State to the Issuer for the purchase of the Bond through one or more disbursements from the WPCLF for Eligible Project Costs pursuant to this Agreement, each of which disbursements shall constitute the payment of the purchase price at par for the equivalent amount of the principal of the Bond.

(e) "Capitalized Interest Rate" means the effective rate of interest at which interest accrues on Principal Amounts disbursed during the construction period from the date of such disbursement.

(f) "Contract Interest Rate" means the interest rate per annum shown on Exhibit 1 as "Interest Rate."

(g) "Contract Period" means the period beginning the Effective Date and ending on the date of the conclusion of the Contract Period of Years.

(h) "Contract Period of Years" means the period of calendar years shown on Exhibit 1 as "Term In Years," commencing on the Date of Initial Payment to the WPCLF as set forth on the project schedule on Exhibit 1, provided that it shall commence no later than twelve (12) months following the actual Initiation of Operation of the Project Facilities, as presently determined in the project schedule, but in no event shall the Contract Period of Years exceed Forty-Five (45) years.

(i) "Default Rate" means a rate equal to the Contract Interest Rate plus three percentage points.

(j) "Effective Date" means the most recent date of signature of this Agreement by the authorized representative of each of the parties, as indicated herein.

(k) "Eligible Project Costs" shall include, whether incurred before or after the date of this Agreement (but if incurred prior to the date hereof, subject to the restrictions set forth in the proviso below), costs that may be disbursed out of funds from the WPCLF, a description and distribution of which, subject to paragraph 4.1. hereof, is shown on Exhibit 1, which is hereby incorporated into this Agreement, and revision to which Exhibit can occur only with the agreement of the State and Issuer; provided, however, that Eligible Project Costs shall include costs incurred prior to the date hereof only if and to the extent that, in the opinion of nationally recognized bond counsel satisfactory to the State, the payment of such costs by the State would not cause the interest on any debt obligations of the OWDA to cease to be excluded from gross income for purposes of federal income taxation.

(l) "Facilities Plan" means all materials developed by the Issuer and the Director, including the Director's approval and any applicable conditions, in satisfaction of R.C. 6111.036 (K)(7).

(m) "Finding of No Significant Impact" or "FNSI" means all materials developed by the Issuer and the Director in satisfaction of R.C. Sections 6111.036 (K)(5) and (L).

(n) "Initiation of Operation" means the date that all Project Facilities are in full and sustained operation as planned and designed.

(o) "Issuer" means the entity identified on Exhibit 1, which is a municipal corporation or other political subdivision eligible to have the State purchase its debt obligation defined herein as the "Bond" with moneys credited to the WPCLF under Section 603(d)(2) of the CWA, 33 U.S.C.A. 1383, and R.C. Section 6111.036(H)(2). Any references to the "Borrower" in Exhibit 1 shall be deemed to be references to the Issuer.

(p) "Participation Rate" means the dollar amount per semi-annual period necessary to amortize a principal amount of one dollar over the Contract Period of Years at the Contract Interest Rate.

(q) "Performance Certification" means the certification by the Issuer that the Project Facilities are meeting the agreed upon performance criteria on the date one year after Initiation of Operation of the Project Facilities.

(r) "Performance Criteria" means the standards set forth by the Director and agreed to in writing by the Issuer which the Issuer shall meet for the design life of the Project Facilities.

(s) "Pledged Revenues" means the one or more dedicated sources of revenue for payment of the Semi-Annual Payment, all as described in Exhibit 1, which shall include, unless otherwise indicated on Exhibit 1,

Wastewater Service Charges and other revenues derived by the Issuer from the ownership and operation of its wastewater system (including, without limitation, any Special Assessment Funds), net of the costs of operating and maintaining the system and paying all amounts required to be paid under any Mortgage, Indenture of Mortgage, Trust Agreement or other instrument heretofore or hereafter entered into by the Issuer to secure debt obligations heretofore or hereafter issued or incurred by the Issuer for the system. These Pledged Revenues shall constitute a Dedicated Repayment Source, as defined in the CWA.

(t) "Project Facilities" means the facilities to be constructed pursuant to this Agreement as described generally in Exhibit 1 attached hereto and made a part hereof and more particularly described in the approved plans and specifications on file with the Director, together with any changes therein made pursuant to Article III hereof, but does not include facilities which are a part of the WRRSP Project.

(u) "Project Participation Principal Amount" means those Eligible Project Costs that are financed with moneys disbursed out of funds from the WPCLF for the payment of the Bond Purchase Price, which costs shall in no event exceed the amount specified on Exhibit 1 as the "Principal Amount." Each disbursement of a Project Participation Principal Amount shall be deemed to be a payment for that amount of the Bond Purchase Price.

(v) "Project Site" means all land, rights-of-way, property rights, easements, franchise rights or other interests in real estate necessary for the construction and operation of the Project Facilities, but it does not include the WRRSP Site.

(w) "Semi-Annual Payment" means the amount equal to the Project Participation Principal Amount multiplied by the Participation Rate. An estimate of the Semi-Annual Payment based on the Principal Amount and the Participation Rate is specified on Exhibit 1 beneath the Principal Amount. A portion of Semi-Annual Payment will be deposited into an account to offset Ohio EPA administrative expenses.

If the Contract Period of Years commences prior to the final determination of the Project Participation Principal Amount, the Semi-Annual Payment shall be based upon the best figures available at the time the computation of each semi-annual payment is required to be made. When such final costs are known, the Semi-Annual Payment shall be recomputed and the next following semi-annual payment shall be either increased or decreased by a factor sufficient to correct for any overpayment or underpayment through the date of such recomputation so that the total amount received by OWDA over the Contract Period of Years will be the same amount as would have been received had the final Project Participation Principal Amount been used in computing the Semi-Annual Payment at the commencement of the Contract Period of Years. The interest during construction computed at the Contract Interest Rate shall, however, be computed based on the then existing cost allocations at the time of such computation and shall not be recomputed.

(x) "Special Assessment Funds" means the proceeds from the special assessments to be hereafter levied, if any, by the Issuer to pay all or a portion of the cost of the Project Facilities including repayment of the loan provided for herein. In such cases where assessments are to be levied, Exhibit 1 sets out the Resolution of Necessity adopted by the appropriate legislative authority.

(y) "Wastewater Service Charge" means a charge against the user payable to the Issuer for the collection or collection and treatment of wastewater and for the provision of the facilities therefor.

(z) "WRRSP Project" means the actions and facilities, including the manner of their implementation and maintenance, which have been approved by the Director under the WPCLF's Water Resources Restoration Sponsor Program and identified by the approved WRRSP Restoration / Protection Plan.

(aa) "WRRSP Restoration / Protection Plan" means all materials developed by the Issuer, including materials developed by the Implementer and submitted by the Issuer, in satisfaction of the requirements of the Director to approve a WRRSP Project for assistance, including the Director's approval and any applicable conditions.

(bb) "WRRSP Site" means all land, rights-of-way, property rights, easements, franchise rights or other interests in real estate necessary for the implementation, construction, and operation of the WRRSP Project.

ARTICLE II - PROPERTY INTEREST IN PROJECT SITE AND PROJECT FACILITIES AND RIGHTS OF ACCESS THERETO

Section 2.1. All real estate and interests in real estate and all personal property constituting the Project Facilities and the Project Site shall be acquired by and shall be the property of the Issuer.

Section 2.2. The Issuer agrees that the State or its designated representatives shall have the right at all reasonable times to enter upon the Project Site, WRRSP Site, WRRSP Project location, and Project Facilities and to examine and inspect the same. The Issuer further agrees that the State or its designated representatives shall have such rights of access to the Project Site and Project Facilities as may be reasonably necessary to enable the OWDA to exercise its rights pursuant to Section 5.8 hereof.

ARTICLE III - ACQUISITION OF PROJECT SITE, CONSTRUCTION OF PROJECT FACILITIES, AND PAYMENT OF COSTS THEREOF

Section 3.1. Subject to the terms and conditions of this Agreement, the Issuer shall do all things necessary to construct the Project Facilities on the Project Site (which the Issuer hereby represents has been acquired by the Issuer) by means of the construction contract.

Section 3.2. In connection with the construction of the Project Facilities, the Issuer agrees that:

(a) It will proceed expeditiously with, and complete, the Project Facilities in accordance with the specific terms and conditions of each of the following: the approved facilities plan, the Finding of No Significant Impact, the approved project schedule, and the approved project detailed plans and specifications, or amendments thereto as approved by the Director. The Issuer accepts such performance as an essential element of this Agreement.

(b) The construction contract(s) will provide that the designated representatives of the State will have access to the work whenever it is in preparation or progress and that the contractor will provide for such access and inspection.

(c) The construction of the Project Facilities on the Project Site, including the letting of contracts in connection therewith, will conform to applicable requirements of Federal, State and local laws, ordinances, rules and regulations and will be performed in compliance with all applicable federal, state and local environmental laws and regulations in effect as of the date hereof.

(d) Following a construction contract award and prior to the commencement of construction, the Issuer will arrange and conduct a pre-construction conference to include the Issuer, the consulting engineers of the Issuer, all contractors, and designated representatives of the State as appropriate or necessary.

(e) All construction contracts and contractors' estimate forms will be prepared so that materials and equipment furnished to the Issuer may be readily itemized by the Issuer and identified, if necessary, as to Eligible Project Costs and non-Eligible Project Costs.

(f) The Issuer will not submit requests for disbursement of non-Eligible Project Costs. If, based on a payment request submitted by the Issuer, the State disburses funds from the WPCLF which are subsequently determined to be for non-Eligible Project Costs, the State will be under no obligation to provide WPCLF funding through payment of the Bond Purchase Price in an aggregate amount beyond the Eligible Project Costs as shown on Exhibit 1, as amended.

(g) Any change or changes in a construction contract regardless of costs which substantially modify the proposed Project Facilities or alter the direct or indirect impact of the Project Facilities upon the environment will be submitted to the Director for prior approval and then, upon approval, be forwarded to the OWDA. The Issuer shall be precluded from submitting to the OWDA payment requests for Eligible Project Costs associated with the change orders until such time as the Director's approval of the change orders has been obtained.

(h) Change orders not requiring prior approval of the State will be submitted to the Director within one (1) month of the time at which they are approved by the Issuer. The Issuer shall be precluded from submitting to the OWDA payment requests for Eligible Project Costs associated with the change orders until such time as the Director's approval of the change orders has been obtained.

(i) The Issuer will comply with all certifications and assurances as agreed to in the Application Compliance Certification, signed by the Authorized Representative of the Issuer.

(j) The Issuer shall be precluded from submitting to the OWDA payment requests for Eligible Project Costs and payment of all or a portion of the Bond Purchase Price unless the Issuer is in full compliance with the certifications and assurances made in the above referenced Application Compliance Certification.

(k) Except as otherwise provided in this Agreement, the Issuer shall have the sole and exclusive charge of all details of the construction of the Project Facilities.

(l) In any year in which disbursements to the Issuer (in the form of payments of all or part of the Bond Purchase Price) under this Agreement exceed $750,000 the Issuer shall comply with the Single Audit Act (SAA) Amendments of 1996, 31 U.S.C.A. § 7501 et. seq., and have an audit of its use of Federal financial assistance (see 2 CFR Part 200). The Issuer agrees to keep a copy of the SAA audit available for review, if requested, by the State for the life of the loan period.

(m) In the event construction costs are to be paid from Bond proceeds under this Agreement, the Issuer shall comply with 40 U.S.C.A. § 3141et. seq. (known as the Federal Davis-Bacon Act), unless waived in writing by the State.

(n) The Borrower acknowledges and agrees that its obligation under Section 3.2(c) to conform to applicable requirements of Federal laws, rules and regulations, includes, without limitation, the obligation to:

(i) comply with all applicable Federal requirements imposed by the then most recent version of the Consolidated Appropriations Act and related State Revolving Fund Policy Guidelines, including, among others, requirements that all of the iron and steel products used in the Project are to be produced in the United States ("American Iron and Steel Requirement") and that if applicable, all

manufactured products used in the projects are to be produced in the United States as required by the Build America, Buy America Act (BABAA), *eff. May 14, 2022* unless (A) the Borrower has requested and obtained a waiver from the Director pertaining to the Project or (B) the Director has otherwise advised the Borrower in writing that BABAA and/or the American Iron and Steel Requirement is not applicable to the Project; or, (C) a BABAA waiver applies.

(ii) comply with all record keeping and reporting requirements under the CWA, including any reports required by the Federal agency or the Director such as performance indicators of program deliverables, information on costs and project progress. The Borrower understands that (A) each contract and subcontract related to the Project is subject to audit by appropriate Federal and State entities and (B) failure to comply with the CWA and this Agreement may be a default hereunder that may result in the required immediate repayment from the Borrower of financial assistance provided under this Agreement and/or other remedial actions.

(o) The Borrower agrees to comply with the requirements of section 603(d)(1)(E)(i) of the CWA, 33 U.S.C.A. 1383, (incorporated into the CWA by the Water Resources Reform and Development Act of 2014) for the development and implementation of a Fiscal Sustainability Plan (FSP). The Borrower agrees to certify, as part of the Performance Certification, a Fiscal Sustainability Plan has been developed and implemented in accordance with the provisions of this Agreement and applicable law.

Section 3.3. The Issuer shall keep accurate records of the Eligible Project Costs. These records must be kept in accordance with generally accepted government accounting standards, including standards relating to the reporting of infrastructure assets, in accordance with generally accepted accounting principles as issued by the Governmental Accounting Standards Board. The Issuer shall permit the State, acting by or through its designated representatives, to inspect all books, documents, papers and records relating thereto at any and all reasonable times for the purpose of said audit and examination, which examination may include examination for compliance with the CWA and R.C. Section 6111.036, and the Issuer shall submit to the State such documents and information as they may require in connection therewith.

Section 3.4. The Issuer shall require that each construction contractor shall furnish a performance and payment bond in an amount at least equal to 100 percent of its contract price as security for the faithful performance of its contract.

Section 3.5. The Issuer shall require that each of its contractors and all subcontractors maintain during the life of its contract, Workers' Compensation Insurance, Public Liability, Property Damage, Vehicle Liability Insurance, and Flood Insurance if appropriate, in amounts and on terms satisfactory to the State. Until the Project Facilities are completed and accepted by the Issuer, the Issuer or (at the option of the Issuer) the contractor shall maintain Builders Risk Insurance (fire and extended coverage) on a 100 percent basis (completed value form) on the insurable portion of the Project Facilities for the benefit of the Director, the OWDA, the Issuer, the prime contractor, and all subcontractors, as their respective interests may appear.

Section 3.6. The Issuer shall provide and maintain competent and adequate engineering services; said services covering the supervision and inspection of the development and construction of the Project Facilities in accordance with the specific terms and conditions of each of the following: the approved project facilities plan, the Finding of No Significant Impact, and the approved project detailed plans and specifications, or State approved amendments thereto.

Section 3.7. Subject to the terms and conditions of this Agreement, the approval of the Director, and upon compliance by the Issuer with all the requirements of the WPCLF, the R.C. Section 6111.036, and the

CWA, which must be met before receiving a disbursement of Eligible Project Costs from the OWDA, the Eligible Project Costs shall be disbursed by the OWDA in the form of the payment of all or a portion of the Bond Purchase Price. In the event this Agreement is terminated by the State pursuant to, and not in breach of, the provisions of this Agreement, or by subsequent agreement of the parties, or in the event this Agreement is terminated by the Issuer, whether or not in breach of the Agreement, the Project Participation Principal Amount disbursed and the principal amount of the Bond then outstanding shall be due and payable in full no later than thirty (30) calendar days after said termination, or, at the State's option, upon terms mutually agreed to between the State and the Issuer.

Section 3.8. Upon being satisfied that the requirements of this Agreement have been met, the OWDA shall deliver to the Issuer a certificate, signed by the trustee for the WPCLF (hereinafter referred to as the "Trustee," which has entered into a Trust Agreement with the Director and the OWDA to provide for the administration of the WPCLF), certifying that monies in the amount necessary to pay all Eligible Project Costs and pay the full Bond Purchase Price are available or are within the present WPCLF Federal letter of credit ceiling and have been set aside by the Trustee to pay such Eligible Project Costs. When such Eligible Project Costs have been incurred and payment of the equivalent amount of the Bond Purchase Price has been requested from the OWDA by the Issuer, subject to the terms and provisions of this Agreement and the Interagency Agreement, and in accordance with the requirements of paragraph (j) of Section 3.2. above, the OWDA shall cause the Trustee to disburse monies of the WPCLF as payment of that amount of the Bond Purchase Price in and for payment of the invoices, demands for payment, or other evidence of cost incurrence to be made to the persons or entities entitled to payment in conformity with the encumbrance of funds set forth in such certificate to pay such obligated Eligible Project Costs. The Issuer represents and agrees that it will not seek or obtain alternative funding for the Eligible Project Costs of the Project Site and the Project Facilities without the prior written consent of the State.

Section 3.9. Upon completion of the Project Facilities, the Issuer shall make a full and complete accounting to the State of the final Eligible Project Costs.

Section 3.10. The Issuer shall comply with the following requirements in accordance with the time schedule contained in Section 3.11. hereof:

(a) In addition to the legislation required by this Agreement in the preambles, the Issuer, through its legislative body, shall pass legislation, to implement the system of user charges (Operation, Maintenance, and Replacement expenses) and the sewer use ordinance that was contingently approved by the Director prior to the execution of this Agreement. In addition, as appropriate, the Issuer shall execute an approved intermunicipal service agreement, as described in the State of Ohio EPA Guidance for a User Charge System, as amended.

(b) The Issuer shall complete all activities and documents provided in the Operation and Maintenance (O&M) Program Plan as amended.

(c) If deemed necessary by the approved Facilities Plan, the Issuer shall be in compliance with any required sewer system evaluation and rehabilitation schedule, as described in the approved Facilities Plan, accepted in the Approved Application, and incorporated into this Agreement on Exhibit 1 as "Special Terms and Conditions," and made a part hereof.

(d) The Issuer shall comply with applicable "fair share" goals and reporting annually by October 15th of each year for utilization of Disadvantaged Business Enterprises.

(e) On the date one year after Initiation of Operation of the Project Facilities, the Issuer shall prepare and submit to the Director the Performance Certification report and Performance Certification, and a corrective action report outlining what tasks are necessary to meet the Performance Criteria, setting forth a schedule, acceptable to the State, which will allow the Issuer to meet said Performance Criteria.

Section 3.11. The Issuer shall be in conformance with the requirements of Section 3.10. above and in compliance with the following:

(a) By the time 50% of the Eligible Project Costs to be funded with WPCLF moneys have been disbursed by OWDA (and, accordingly, 50% of the total Bond Purchase Price has been paid), the Issuer must demonstrate, to the satisfaction of the State, that it has completed the requirements of paragraph (a) of Section 3.10. above.

(b) No later than one year after Initiation of Operation, the Issuer shall complete all activities and documents provided in the O&M Program Plan and participate in a final evaluation meeting.

(c) At any time during the effective period of this Agreement, the Issuer must demonstrate, to the satisfaction of the State, that it is in compliance with the requirements of paragraphs (c) and (d) of Section 3.10. above, as the compliance relates to construction of the Project Facilities.

Except as related to paragraphs (c) and (d) of Section 3.10. above, upon the failure of the Issuer to comply with the provisions of Section 3.10. and 3.11. herein as determined by the Director, the OWDA shall employ consulting engineers or other qualified personnel to perform any services necessary for the implementation of such requirements. All costs incurred by the OWDA in the employment of said personnel will be included in the Eligible Project Costs of the Project Facilities. Additionally, during the period of non-compliance with any of the requirements, the Issuer shall be precluded from submitting disbursement requests and Bond Purchase Price payments as noted in paragraph (j) of Section 3.2. above and the State shall not be obligated to approve such requests during such period of non-compliance.

ARTICLE IV - PAYMENTS BY BORROWER

Section 4.1. Subject to the further provisions set forth hereinafter and in the Bond, the Issuer agrees to and shall pay at the time of the execution of this Agreement the Application Fee and thereafter, semi-annually on January 1, and July 1 of each year of the Contract Period of Years to the WPCLF, the Semi-Annual Payment, solely from the Pledged Revenues.

The obligation of the Issuer to pay the charges set forth in the Bond and in this Section shall not be assignable, and the Issuer shall not be discharged therefrom, without the prior written consent of the State. The ownership of the Bond shall not be assignable or transferable by the State other than by statutory succession without the consent of the Issuer. In the event that construction or operation of the Project Facilities shall cease or be suspended for any reason, unless otherwise agreed to in writing by the State, the Issuer shall continue to be obligated to pay such charges pursuant to the Bond and this Section. In the event the Issuer defaults in the payment of the Semi-Annual Payment, the amount of such default shall bear interest at the Default Rate from the date of the default until the date of the payment thereof. All costs incurred by the State in curing such default including, but not limited to, court costs and attorney's fees shall be paid by the Issuer upon demand, but solely from the Pledged Revenues, and shall not be eligible for inclusion in Eligible Project Costs.

In the event that the Issuer fails to make a full Semi-Annual Payment as provided in the Bond and herein, the amount of any such partial payment first shall be applied as interest on the Bond, with the remainder being applied toward the payment of the outstanding principal of the Bond.

With respect to the Bond and this Agreement, neither the general resources nor the general credit of the Issuer, but only the Pledged Revenues, shall be required to be used or pledged for the making of any payment or the performance of any duty under the Bond or this Agreement. Neither the Bond nor this Agreement represents or constitutes a debt or a pledge of the faith and credit of the Issuer. However, if otherwise lawful, nothing herein shall be deemed to prohibit the Issuer from using, of its own volition, any of its general resources for the fulfillment of any of the terms and conditions of the Bond or this Agreement.

Section 4.2. It is agreed that, no later than the fifteenth day of June, and December, the OWDA shall invoice the Issuer for the sum owing by the Issuer pursuant to the Bond and Section 4.1. and that payment of each such invoice shall be made by the Issuer to the OWDA not later than the first day of the following July or January. No failure by the OWDA to send any such invoice and no failure by the Issuer to receive any such invoice shall relieve the Issuer from its obligation to pay the amount due under the Bond and hereunder on the applicable due date.

Section 4.3. The Issuer hereby agrees:

(a) That it will at all times prescribe and charge such rates, after meeting: (1) operation and maintenance expenses therefore, and, (2) if required by the Director pursuant to R.C. Section 6111.036, a contribution to the Borrower's Capital Improvements Fund and, (3) the payment of all amounts required by any Mortgage, Indenture of Mortgage, Trust Indenture or other instrument heretofore or hereafter granted by the Borrower, or contractual obligations between the Borrower and the State, payable solely from Pledged Revenues, as shall result in revenues at least adequate, to provide for the payments required by Section 4.1. hereof minus the amount of such payment provided from other Dedicated Repayment Sources, if any; and

(b) That the Issuer will, for the Contract Period of Years, furnish annually to the State reports of the operation and income of its wastewater system and also an annual report of the accounts and operations of the wastewater system and such other documents as the State may reasonably request in order to respond to requests for documentation from rating agencies or providers or potential providers of credit enhancement for debt obligations of the OWDA, and the Issuer will permit the designated representative of the State to inspect all records, accounts and data of the wastewater system at all reasonable times; and

(c) That the Issuer will segregate the revenues, funds and properties of its wastewater system from all other funds and properties of the Issuer.

All of the obligations under this Section are hereby established as duties specifically enjoined by law and resulting from an office, trust, or station upon the Issuer within the meaning of R.C. Section 2731.01.

Section 4.4. If the Issuer pays all or any portion of the Semi-Annual Payment from Special Assessment Funds, and if any payor of the Special Assessment Funds elects to pay the special assessments in a one-time, lump-sum payment in lieu of having the special assessments certified to the appropriate county auditor for periodic collection, then the Issuer may elect to apply the amount of such payment to the reduction of the Project Participation Principal Amount and of the Bond's outstanding principal amount by including that amount with its next Semi-Annual Payment pursuant to Section 4.1. hereof, accompanied by a written notice to the State identifying the amount so included and directing the State so to apply that amount. Upon the

receipt of such payment and notice, the OWDA shall recompute the remaining Semi-Annual Payments based on the reduced Project Participation Principal Amount, and the OWDA shall notify the Issuer in writing of the reduced amount of the remaining Semi-Annual Payments.

Section 4.5. The Issuer agrees to provide financing for all non-Eligible Project Costs. As a preliminary indication of that commitment, the Issuer has provided evidence that financing is readily available for all non-Eligible Project Costs which will be or may be incurred by the Issuer in connection with construction of the Project Facilities.

Section 4.6. The Issuer agrees that, in the event the Issuer or its contractors receives WPCLF moneys in excess of the Eligible Project Costs, the Issuer shall repay said excess moneys to the WPCLF at the time of the first Semi-Annual Payment, or as otherwise agreed to by the Issuer and the State.

Section 4.7. In order to enable the State to comply with the requirements of federal securities laws (including, without limitation, 17 C.F.R. § 240.10b-5, and 17 C.F.R. § 240.15c2-12 ("Rule 15c2-12") each promulgated by the Securities and Exchange Commission (the "SEC") under the Securities Exchange Act of 1934, as amended), the Issuer agrees to prepare and file with the State or, at the direction of the State, to file with the Municipal Securities Rulemaking Board ("MSRB") through the EMMA System (as defined below), any annual financial information or material events disclosures that the State may determine it requires to achieve such compliance. The Issuer consents to the State's incorporation by reference into State official statements or other State filings with the MSRB of any official statements or portions thereof, financial statements, or other documents that the Issuer may have filed or may file with the MSRB. In the event the Issuer fails to prepare any financial statement or other financial information that this Section requires the Issuer to prepare and file with or at the direction of the State, then the State shall have the right (in addition to any other rights it may have to enforce the obligations of the Issuer hereunder) to inspect all records, accounts and data of the Issuer's wastewater system and cause the preparation of the required financial statement or information and to employ such professionals as it may reasonably require for that purpose, and to be reimbursed from any available Pledged Revenues for the costs of its doing so. This Section shall not be construed to limit the generality of Section 4.3 hereof. For purposes of this Section, "EMMA System" shall mean the Electronic Municipal Market Access system of the MSRB for use in the collection and dissemination of information, which system the SEC has stated to be consistent with its Rule 15c2-12. Currently, the following is the website address for EMMA: emma.msrb.org.

ARTICLE V - MAINTENANCE, OPERATION, INSURANCE AND CONDEMNATION

Section 5.1. The Issuer agrees that during the Contract Period of Years it will:

(a) Operate the Project Facilities in compliance with all applicable federal, state and local environmental laws and regulations in effect during such period, and

(b) Keep the Project Facilities including all appurtenances thereto and the equipment and machinery therein in good repair and good operating condition at its own cost so that the completed Project Facilities will continue to operate with substantially the same efficiency as when first constructed.

The Issuer shall have the privilege of making additions, modifications and improvements to, making deletions from and discontinuing the use or operation of all or any part of, the Project Site and the Project Facilities from time to time; provided, that the cost of any additions, modifications and improvements shall be paid by the Issuer, and the same shall be the property of the Issuer and be included under the terms of this Agreement as part of the Project Site or the Project Facilities, as the case may be; and provided further

that the Issuer shall make no modification to, make any deletion from or discontinue the use or operation of all or any part of, the Project Site or the Project Facilities, the result of which would be a material decrease in the Pledged Revenues without first obtaining the written consent of the State thereto.

Section 5.2. The Issuer agrees that it will initiate operation of the Project Facilities in accordance with the Project Schedule, as amended, and will not discontinue operation of the Project Facilities without the approval of the Director. The Issuer agrees that it will provide adequate operation and maintenance of the Project Facilities to comply with all applicable rules and regulations of the Director. The Issuer agrees that, in accordance with its NPDES permit and the Operation and Maintenance Program sufficient qualified operating personnel certified by the State of Ohio will be retained by the Issuer to operate the Project Facilities, and all operational tests and measurements necessary to determine compliance with the preceding sentence will be performed to insure proper and efficient operation and maintenance of the Project Facilities from the time of Initiation of Operation until the end of the Contract Period of Years or the approval of the discontinuance of the operation of the Project Facilities by the Director. The Project Facilities shall be operated and maintained in accordance with the sewer use ordinance or resolution governing the use of the Project Facilities and any administrative regulations adopted pursuant thereto acceptable to the Director as appropriate.

The Issuer will permit the State or its designated representatives to have access to the records of the Issuer pertaining to the operation and maintenance of the Project Facilities at any reasonable time following completion of construction of the Project Facilities.

Section 5.3. The Issuer agrees to insure, or cause to be insured, the Project Facilities in such amounts as similar properties are usually insured by political subdivisions similarly situated, against loss or damage of the kinds usually insured against by political subdivisions similarly situated, by means of policies issued by reputable insurance companies duly qualified to do such business in the State of Ohio.

Section 5.4. The Issuer agrees that it will provide through self-insurance or obtain public liability insurance with reference to the Project Facilities in minimum amounts of $500,000 for the death of or personal injury to one person and $1,000,000 for personal injury or death for each occurrence in connection with the Project Facilities and $500,000 for property damage for any occurrence in connection with the Project Facilities. The Director and the OWDA, on behalf of the WPCLF shall be made an additional insured under such policies.

Section 5.5. Throughout the Contract Period of Years, the Issuer shall maintain Worker's Compensation Coverage or cause the same to be maintained.

Section 5.6. Any insurance policy issued pursuant to Section 5.4. hereof shall be so written or endorsed as to make losses, if any, payable to the State on behalf of the WPCLF, and the Issuer as their respective interests may appear. Each insurance policy provided for in Sections 5.3. and 5.4. hereof shall contain a provision to the effect that the insurance company shall not cancel the same without first giving written notice thereof to the State and the Issuer at least ten days in advance of such cancellation. The Issuer shall deliver certificates of insurance evidencing the coverage required herein to the State.

Section 5.7. The net proceeds of the insurance carried pursuant to the provisions of Sections 5.3. and 5.4. hereof shall be applied as follows:

(a) The net proceeds of the insurance required in Section 5.3. hereof shall be applied as provided in Section 5.9. hereof, and

(b) The net proceeds of the insurance required in Section 5.4. hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

Section 5.8. In the event the Issuer shall fail to maintain the full insurance coverage required by this Agreement or shall fail to keep the Project Facilities in good repair and operating condition, or shall fail to operate the Project Facilities in accordance with Section 5.2. hereof, the OWDA may (but shall be under no obligation to) take out the required policies of insurance and pay the premiums of the same or may make such repairs or replacements as are necessary or may hire the necessary operating personnel to insure compliance with Section 5.2. and provide for payment thereof; and all amounts so advanced therefor by the OWDA shall become a separate obligation, apart from this Agreement, of the Issuer to the OWDA, which amounts, together with interest thereon at a rate equal to three percent (3%) above the Contract Interest Rate from the date thereof, the Issuer agrees to pay.

Section 5.9. If prior to the completion of the Contract Period of Years the Project Facilities shall be damaged or partially or totally destroyed by fire, flood, windstorm or other casualty, there shall be no abatement or reduction in the amounts payable by the Issuer pursuant to Section 4.1. hereof, and the Issuer will:

(a) Promptly repair, rebuild or restore the property damaged or destroyed, and

(b) Apply for such purpose so much as may be necessary of any net proceeds of insurance policies resulting from claims for such losses as well as any additional moneys of the Issuer necessary therefor. All net proceeds of insurance resulting from claims for such losses shall be paid to the Issuer.

Section 5.10. In the event that title to or the temporary use of the Project Site or Project Facilities, or any part thereof, shall be taken by any person, firm, or corporation acting under governmental authority, there shall be no abatement or reduction on the amounts payable by the Issuer pursuant to Section 5.1. hereof, and any net proceeds received from any award made in such eminent domain proceedings shall be paid to and held by the Issuer in a separate condemnation award account and shall be applied by the Issuer in either or both of the following ways as shall be determined by the Issuer:

(a) The restoration of the improvements located on the Project Site to substantially the same condition as they existed prior to the exercise of said power of eminent domain; or

(b) The acquisition of additional real estate, if necessary, and facilities, by construction or otherwise, equivalent to the Project Facilities, which real estate and facilities shall be deemed a part of the Project Site and Project Facilities without the payment of any amounts other than herein provided, to the same extent as if such real estate and facilities were specifically described herein.

Any balance of the net proceeds of the award in such eminent domain proceedings shall be paid to the Issuer upon delivery to the OWDA of a certificate signed by an authorized officer of the Issuer that the Issuer has complied with either paragraph (a) or (b), or both, of this Section 5.10. The OWDA shall cooperate fully with the Issuer in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project Site or Project Facilities of any part thereof. In no event will the Issuer voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Project Site or Project Facilities or any part thereof without the written consent of the State.

Section 5.11 This Section 5.11 shall apply if Exhibit 1 hereto indicates that the Contract Interest Rate includes a Water Resource Restoration Sponsor Program (WRRSP) discount.

(a) In accepting the WRRSP discount, the Issuer agrees that to the fullest extent permitted by law it shall assure implementation of the WRRSP Project in accordance with the specific terms and conditions of each of the following as applicable: approved Restoration / Protection Plans, the Finding of No Significant Impact, agreements or other mechanisms to restrict or maintain the identified uses associated with the WRRSP Project, and agreements between the Issuer and an entity responsible for implementing approved Restoration / Protection Plans (hereinafter the "Implementer") which are attached hereto as Exhibit 2 and made a part hereof. The Issuer accepts such performance as an essential element of this Agreement.

(b) Following the award of assistance, the Issuer may request disbursements for completion of a Restoration / Protection Plan and for implementation of an approved Restoration / Protection Plan. All such disbursements will be requested on the "Online Fund Payment Request Form" provided by the Ohio Water Development Authority website. The parties to this Agreement expect that costs directly associated with implementing the Restoration / Protection Plan will be disbursed by the OWDA either to the Issuer, the Implementer, an escrow agent jointly selected by the Issuer and the Implementer, or to contractors supplying materials or performing services in furtherance of this Agreement which have been designated by the Issuer as authorized recipients of such disbursements.

When WRRSP-eligible costs are incurred on behalf of the Implementer, invoices shall first be submitted to the Implementer which shall approve them to be requested for reimbursement by the Issuer and shall certify such invoices as eligible for assistance prior to forwarding them to the Issuer. The Issuer shall approve and certify all invoices (whether incurred by the Issuer directly or the Implementer) prior to submitting them to the Director with the accompanying disbursement request form. The Director shall review the disbursement request, including accompanying invoices, and if it is approved, shall transmit it to OWDA which then will be responsible for disbursing funds directly, either to the Issuer, escrow agent or to the contractor.

(c) Each interest in property acquired by either the Issuer or the Implementer as part of the WRRSP Project shall be subject to legally enforceable use restrictions which shall run with the property, perpetually limiting the use of the property to natural area uses consistent with the approved Restoration / Protection Plan. All conservation easements acquired either by the Issuer or the Implementer to implement or maintain the WRRSP Project shall be permanent easements and shall limit the uses of the land under easement to natural area uses consistent with the approved Restoration / Protection Plan. Issuer shall submit to the Director copies of documents containing such restrictions within ninety days of acquisition of the property interest.

(d) Issuer's failure to comply with any of the terms of this Section or the terms of any WRRSP-related requirements identified in any of the documents listed above during the time this Agreement is in effect shall be considered a default under this Agreement. If the State provides written notice of such default to the Issuer and the Issuer fails within sixty days of the date of such notice to satisfactorily demonstrate in writing to the Director that the Issuer is taking appropriate actions that will cure the default and will result in compliance with the WRRSP requirements, then from and after the date that is sixty days after the date of such notice the State will increase the Contract Interest Rate to a rate necessary to recover the amount of WRRSP funds disbursed and to eliminate any discount applied for the remainder of the Contract Period of Years, and all subsequent semi-annual payments for the remainder of the Contract Period of Years will be adjusted accordingly. Issuer agrees to submit in a timely manner the amounts required by the revised semi-annual payments for the remainder of the effective period of this Agreement.

The amount that the State recovers through the remedy provided for in this paragraph shall not exceed the total of the WRRSP Project cost financed by the WPCLF and any interest discount applied for the remainder of the Contract Period of Years, and any amount thus recovered by the State shall be credited toward the liquidation of any liability of the Issuer under this Section 5.11.

(e) To the extent that Issuer's failure to comply with WRRSP-related requirements involves a failure on the part of an Implementer to carry out a term or condition of an approved Restoration / Protection Plan for which a remedy exists via a separate enforceable agreement between the Director and the Implementer, the Director shall first attempt to address such non-compliance through the agreement between the Director and the Implementer prior to invoking any remedies under this agreement or otherwise available. If the Director, after exercising its obligation to attempt to address non-compliance through direct action between the Director and the Implementer, provides written notice to the Issuer that noncompliance continues to exist, the Director or the State may undertake any remedies under this agreement or otherwise available.

ARTICLE VI - GENERAL REPRESENTATIONS AND AGREEMENTS; EVENTS OF DEFAULT AND REMEDIES

Section 6.1. The Issuer hereby represents and warrants that:

(a) It is and shall remain in compliance, and shall take whatever actions are necessary to assure compliance during the Contract Period of Years, with all applicable federal, state, and local laws, ordinances, rules, regulations, and provisions of this Agreement, including without limitation the CWA and R.C. Section 6111.036, subject to its rights to contest in good faith the issue of non-compliance;

(b) There is no litigation or administrative action or proceeding pending or, to the best of its knowledge, threatened against the Issuer, wherein a result adverse to the Issuer could reasonably be expected to have a materially adverse effect on the ability of the Issuer to meet its obligations under the Bond or this Agreement; and

(c) Except as heretofore disclosed in writing to the State, no judgment or consent order has been rendered against the Issuer, and the Issuer is not a party to any agreement, which imposes, will impose, or has imposed any fines or monetary penalties upon the Issuer for the violation of any federal, state, or local law, ordinance, or regulation, which fines or monetary penalties have not heretofore been paid in full.

Section 6.2. Each of the following shall be an event of default ("Event of Default") under the Bond and this Agreement:

(a) The Issuer shall fail to make any payment to the OWDA required pursuant to this Agreement when the same is due and payable, including, without limitation, any amount due and payable pursuant to Article III hereof.

(b) The Issuer shall fail to observe and perform any other obligations, agreements, or provisions of the Bond or this Agreement, which failure shall continue for thirty (30) days after receipt of written notice thereof from the Director or the OWDA; provided, however, that such failure shall not constitute an Event of Default under the Bond or hereunder if the Issuer demonstrates both of the following to the satisfaction of the Director and OWDA: i) cure of such failure cannot be effected within thirty (30) days; and ii) the Issuer is taking all reasonably necessary actions to cure such failure with all deliberate speed. Notwithstanding the contents of this paragraph, the notice and cure provisions of paragraph 5.11(d) shall apply to the WRRSP

Project portions of the assistance in the event of a failure to comply with the terms of WRRSP related requirements under this Agreement.

(c) Any representations made by the Issuer in Section 6.1 or 7.1 shall at any time during the Contract Period of Years prove to be false.

(d) The Issuer shall fail to observe any of the covenants contained in Article VII herein.

Section 6.3. The Director may terminate, suspend, or require immediate repayment of financial assistance from the Issuer in the event of a default due to failure to make any required payment, or due to any violation of the terms or conditions of this Agreement, or of the documents referred to in Section 3.2.(a), or of the Plan Approval for the Project Facilities under Section 6111.44 of the Ohio Revised Code. The Director may also prescribe corrective action, or direct that corrective action be undertaken, to remedy the event or violation, and the Issuer agrees to perform such corrective action.

Section 6.4. Whenever an Event of Default of payment shall have occurred and be continuing, in addition to any other rights or remedies provided herein, by law or otherwise, the State may:

(a) declare the full amount of the then unpaid Project Participation Principal Amount (i.e., the outstanding principal amount of the Bond) to be immediately due and payable;

(b) to the extent permitted under any judgment, consent order, or agreement affecting the Issuer, require the Issuer to agree to, and the Issuer hereby agrees to, effect the subordination of the payment of any fine or penalties imposed for the violation of any federal, state, or local environmental law or regulation to the payment of the Eligible Project Costs and the interest due thereon.

Section 6.5. No right or remedy conferred upon the OWDA or the Director under Sections 5.11, 6.3 or 6.4 hereof is intended to be exclusive of any other right or remedy given herein, by law, or otherwise. Each right or remedy shall be cumulative and shall be in addition to every other remedy given herein, by law, or otherwise.

Section 6.6. The Issuer releases the State from, agrees that the State shall not be liable for, and agrees, to the fullest extent permitted by law, to hold the State, its officers, employees and agents harmless against, any loss or damage to property, or any loss or injury to or death of any person, or any other loss or damage, that may be occasioned by any cause whatsoever pertaining to the Project Facilities, or the use thereof; provided that such indemnity under this Section shall not be effective for damages that result from negligent or intentional acts of the State, its officers, employees and agents. The Issuer further agrees, to the fullest extent permitted by law, to indemnify and hold harmless the State, its officers, employees and agents against and from any and all cost, liability, expenses and claims arising from any breach or default on the part of the Issuer in the performance of any covenant or agreement on the part of the Issuer to be performed pursuant to the terms of this Agreement, arising from the acquisition, construction, installation, or improvement of the Project Facilities or arising from any act or negligence of or failure to act by the Issuer, or any of its agents, contractors, servants, employees or licensees, or arising from any accident, injury or damage whatsoever caused to any person, firm, or corporation resulting from the Project Facilities (other than any accident, injury, or damage that results from negligent or intentional acts of the State, its officers, employees and agents), and from and against all cost, liability and expenses incurred in or in connection with any such claim or action, arbitration or proceeding brought thereon.

In case any action or proceeding be brought against the State by reason of any claim described in this Section, the State agrees to cause written notice of such action or proceeding to be given to the Issuer, and the Issuer upon notice from the State covenants to resist or defend such action or proceedings at the Issuer's expense including all legal and other expenses (including reasonable attorneys' fees).

ARTICLE VII - MAINTENANCE OF TAX-EXEMPT STATUS OF BONDS / PRIVATE BUSINESS USE RESTRICTIONS

Section 7.1. The Issuer acknowledges that the OWDA may issue tax-exempt bonds to provide the funds to meet the State's obligations with regard to funding the WPCLF and that the maintenance of the tax-exempt status of any such bonds will depend, in part, on the Issuer's compliance with the provisions of this Agreement. Accordingly, the Issuer agrees as follows:

(a) That it shall take no action that would cause bonds issued by the OWDA, the proceeds of which could fund the payment of the Bond Purchase Price (the "OWDA Bonds") to fail to qualify as tax-exempt bonds, nor omit to take any action necessary to maintain such status;

(b) That it shall take any action that the OWDA reasonably may request it to take to maintain the status of the OWDA Bonds as tax-exempt bonds;

(c) That, to assure that the OWDA Bonds will not be or become "private activity bonds" within the meaning of 26 U.S.C.A. Section 141 of the Internal Revenue Code of 1986, as amended:

(i) The Issuer shall not permit, at any time ten percent (10%) or more (in the aggregate) of that portion of the Project Facilities to be financed with funds borrowed from the State hereunder (the "State Funds") to be used by any person or persons for any private business use (as hereinafter defined) while at the same time the payment of principal of, or the interest on, the State Funds is directly or indirectly (A) secured by any interest in (1) property used or to be used for a private business use or (2) payments made with respect to such property or (B) derived from (1) payments with respect to such property (whether or not made to the OWDA) or (2) borrowed money used or to be used for private business use.

(ii) No portion of the State Funds will be used to make or finance loans to persons other than other governmental units.

For purposes of this Agreement, "private business use" means use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit (as hereinafter defined). Use of any Project Facility or Project Site as a member of the general public will not be considered a private business use. Any activity carried on by a person other than a natural person shall be treated as a trade or business. Use by an organization which qualifies under 26 U.S.C.A. Section 501(c)(3) of the Internal Revenue Code of 1986, as it may be amended from time to time, shall be considered a private business use.

For purposes of this Agreement, "governmental unit" means a political subdivision within the United States, including any political subdivision within the State of Ohio, but does not mean the United States or any of its governmental branches, departments or agencies.

If there is any question about the application of the foregoing restrictions relating to private business uses or loans, the Issuer agrees to immediately write the OWDA requesting assistance prior to entering into any agreement which may be prohibited as provided herein.

(iii) The Issuer shall not re-loan, directly or indirectly, any portion of the amounts advanced to it under this Agreement to any person;

(d) That, to assure that the OWDA Bonds will not be or become "arbitrage bonds" within the meaning of 26 U.S.C.A. Section 148 of the Internal Revenue Code of 1986, as amended, the Issuer, except upon the prior written consent of the OWDA, shall not create or permit to exist any fund pledged to, or expressly reserved exclusively for, the payment of amounts payable by the Issuer hereunder.

Section 7.2. The OWDA shall not be required to, and shall not, consent to any action by the Issuer referred to in Section 7.1 unless it first shall have received an opinion of nationally recognized bond counsel to the effect that the consummation of the transaction or transactions contemplated by such action will not adversely affect the tax-exempt status of the OWDA bonds.

Section 7.3. If the Issuer shall have any question about the application of Section 7.1., in the particular circumstances faced by it at any time during the term of this Agreement, it shall immediately inform the OWDA of the circumstances and request the OWDA's assistance to resolve any such questions, to the end that the tax-exempt status of the OWDA Bonds and of the OWDA's bonds would be preserved.

ARTICLE VIII - MISCELLANEOUS PROVISIONS

Section 8.1. Any invoice, accounting, demand, or other communication under this Agreement by any party to this Agreement to any other party shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

(a) in the case of the OWDA, is addressed to or delivered personally to the OWDA at:

Ohio Water Development Authority
480 South High Street
Columbus, Ohio 43215
Attn: Executive Director

and,

(b) in the case of the Director, is addressed to or delivered personally to the Director at:

Environmental Protection Agency
Lazarus Government Center
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Chief, Division of Environmental and Financial Assistance

and,

(c) in the case of the Issuer, is addressed to or delivered personally to the Issuer at the address listed on Exhibit 1, or at such other addresses with respect to any such party as that party may from time to time, designate in writing and forward to the other parties as provided in this Section.

Section 8.2. Any approval of the State required by this Agreement shall not be unreasonably withheld. Any provision of the Agreement requiring the approval of the State or the satisfaction or evidence of satisfaction of the State shall be interpreted as requiring a response by the Director and the OWDA granting, authorizing, or expressing such approval or satisfaction, as the case may be, unless such provision expressly provides otherwise.

Section 8.3. Upon request of the OWDA, the Issuer agrees to execute the information report required by 26 U.S.C.A. Section 149 of the Internal Revenue Code of 1986, as it may be amended from time to time, with respect to this Agreement, such form to be completed by the OWDA on the basis of information provided by the Issuer. The Issuer hereby agrees that the OWDA may file such information report for and on behalf of the Issuer with the Internal Revenue Service.

Section 8.4. This Agreement is made subject to, and conditional upon, the approval of this Agreement as to form by the General Counsel of the OWDA and Counsel to the Director and upon the certification of availability of funds as provided in Section 3.8. hereof.

Section 8.5. If any provision of this Agreement or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are severable. In lieu thereof the parties agree that there shall be added a provision as similar in terms to such illegal, invalid and unenforceable provision as may be possible and be legal, valid and enforceable.

Section 8.6. This Agreement shall become effective as of the "Effective Date" and shall continue in full force and effect until the final day of the Contract Period of Years, based on the Semi-Annual Payment being paid at the rate established in Section 4.1. hereof, or until the day the obligations of the Issuer under this Agreement have been fully satisfied, whichever is later.

Section 8.7. This Agreement shall be binding upon and inure to the benefit of the parties hereto and to any person, office, board, department, agency, municipal corporation, or body politic and corporate succeeding by operation of law to the powers and duties of any of the parties hereto. This Agreement shall not be assigned by the Issuer without the prior written consent of the State. The State, at its option, may assign this Agreement without the consent of the Issuer.

Section 8.8. As its record of this Agreement, the Issuer agrees to receive an electronic copy pursuant to R.C. 1306.06(C).

The remainder of this page is intentionally left blank.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers.

APPROVED AS TO FORM

By _____
Ohio EPA Counsel

Print Name _____

OHIO ENVIRONMENTAL PROTECTION AGENCY

By _____
Anne M. Vogel, Director

Date _____

APPROVED AS TO FORM

By _____
General Counsel

Print Name _____

OHIO WATER DEVELOPMENT AUTHORITY

By _____
Michael Fraizer, Executive Director

Date _____

APPROVED AS TO FORM

By _____
Issuer's Counsel

Print Name _____

ISSUER

By _____
Authorized Representative

Print Name _____

Title _____

Date _____