



# State of New Jersey

OFFICE OF THE GOVERNOR  
P.O. Box 001  
TRENTON, NJ 08625-0001

PHILIP D. MURPHY  
GOVERNOR

NOREEN M. GIBLIN, ESQ.  
DEPUTY CHIEF COUNSEL

**TO:** Lynda Jeannette [ljeannette@njib.gov](mailto:ljeannette@njib.gov)  
Nancy Collazo [ncollazo@njib.gov](mailto:ncollazo@njib.gov)

**FROM:** Jesse Marie Kirkham, Authorities Unit, Office of the Governor

**DATE:** May 13, 2022

**RE:** New Jersey Infrastructure Bank Minutes

This email is confirmation that the Authorities Unit received the minutes from the May 12, 2022 Board meeting on May 12, 2022. The calculated veto date is May 26, 2022.

Thank you.

Attachment

cc: Joy Johnson  
Jeffry Nielsen



New Jersey Infrastructure Bank  
3131 Princeton Pike  
Building 4 Suite 216  
Lawrenceville, NJ 08648-2201

Robert A. Briant, Jr., Chairperson  
Mark Longo, Vice Chairperson  
Jack Kocsis, Jr., Treasurer  
James McManus, Jr, Secretary.  
Elizabeth Maher Muoio, State Treasurer  
Shawn LaTourette, DEP Commissioner  
Diane Gutierrez-Scaccetti, DOT Commissioner  
Lt. Governor, Sheila Y. Oliver, DCA Commissioner  
David E. Zimmer, Executive Director

May 12, 2022

Honorable Phil Murphy  
Governor of the State of New Jersey  
State House  
PO Box 001  
Trenton, New Jersey 08625

Dear Governor Murphy:

In accordance with the provisions of the New Jersey Infrastructure Trust Act, I hereby transmit for your review and consideration the minutes of the May 12, 2022 meeting of the New Jersey Infrastructure Bank. The New Jersey Infrastructure Trust Act provides that the Governor has ten days from the delivery of the minutes, excluding weekends and holidays, to review and accept such minutes. In the event that the minutes are not acted upon within the statutory time frame by you, the minutes become effective automatically.

Sincerely,

A handwritten signature in black ink, appearing to read "David E. Zimmer".

David E. Zimmer, CFA  
Assistant Secretary

Enclosure

cc: Honorable Nicholas P. Scutari, President of the Senate  
Honorable Craig Coughlin, Speaker of the General Assembly



New Jersey Infrastructure Bank  
3131 Princeton Pike  
Building 4 Suite 216  
Lawrenceville, NJ 08648-2201

Robert A. Briant, Jr., **Chairperson**  
Mark Longo, **Vice Chairperson**  
Jack Kocsis, Jr., **Treasurer**  
James McManus, Jr., **Secretary**  
Elizabeth Maher Muoio, **State Treasurer**  
Shawn LaTourette, **DEP Commissioner**  
Diane Gutierrez-Scaccetti, **DOT Commissioner**  
Lt. Governor, Sheila Y. Oliver, **DCA Commissioner**  
  
David E. Zimmer, **Executive Director**

**5/12/2022**

## **NEW JERSEY INFRASTRUCTURE BANK**

### **MINUTES OF THE BOARD OF TRUSTEES MEETING**

Thursday, May 12, 2022

#### **1. CALL TO ORDER:**

A meeting of the New Jersey Infrastructure Bank was convened on Thursday, May 12, 2022, in the conference room of 3131 Princeton Pike, Building 4, Suite 216, Lawrenceville, New Jersey. Chairperson Briant called the meeting to order at 10:01 am.

#### **2. OPEN PUBLIC MEETING ACT STATEMENT:**

Executive Director Zimmer read the Open Public Meetings Act Statement into the record.

#### **3. ROLL CALL:**

Executive Director Zimmer conducted roll call to which Mr. Briant, Mr. Longo, Mr. Kocsis, Mr. McManus, Mr. Moore, Mr. Russo, Mr. Hauch, and Mr. Viavattine all responded affirmatively.

#### **DIRECTORS**

Robert Briant, Chairperson  
Mark Longo, Vice Chairperson \*  
Jack Kocsis, Jr., Treasurer \*  
James McManus, Jr., Secretary  
Paul Hauch  
(for DEP Commissioner Shawn LaTourette)  
Michael Russo  
(for DOT Commissioner Diane Gutierrez-Scaccetti)  
David Moore  
(for State Treasurer Elizabeth M. Muoio)  
Samuel Viavattine  
(for DCA Commissioner/Lt. Governor Sheila Y. Oliver)

#### **OTHERS**

David E. Zimmer, Executive Director  
Judy Karp, Assistant Director/Legal and Compliance Officer  
Lauren Kaltman, Chief Financial Officer  
Robert Fernandez, Chief Operating Officer - Transportation  
Maria Andujar, Accounting Manager  
George Rolon, Project Manager  
Katie Gaskill, Accountant  
Charles Jenkins, DEP Municipal Finance & Construction Elem  
Jeffry Nielsen, Governor's Authority Unit  
Victoria Nilsson, Deputy Attorney General  
Richard Nolan, McCarter & English LLP  
Tricia Gasparine, Chiesa Shahinian Giantomasi  
Geoffrey Stewart, PFM

(\* ) Participated via telephone

#### 4. APPROVAL OF THE MINUTES:

Chairperson Briant opened the discussion of the minutes of the I-Bank's Board meeting held Thursday, April 14, 2022.

There were no comments or questions related to the minutes from Thursday, April 14, 2022. Chairperson Briant requested a motion for approval.

Mr. Russo moved for the approval of the minutes. Mr. McManus seconded the motion.

Nancy Collazo conducted a roll call. The motion was carried out with seven members voting in favor of the motion. Mr. Kocsis had a connectivity issue and rejoined the call at 10:10 am.

#### 5. ANNOUNCEMENTS:

Executive Director Zimmer summarized the substantive events and correspondence issued since the last I-Bank Board meeting.

- On May 11, 2022; Executive Director Zimmer participated as a panelist in the "Supporting Water Utilities in Disadvantaged and Underserved Communities" online seminar sponsored by the Reservoir Center for Water Solutions;
- On May 9, 2022; Chief Financial Officer Kaltman, Human Resources Director Drake, Comptroller Bruther, and Accounting Manager Andujar conducted the I-Bank's first payroll process with ADP;
- On May 9, 2022; Executive Director Zimmer and Construction Project Manager Rolon participated in the NJ Resilience Accelerator Workshop at Hillsborough, NJ;
- On May 5, 2022; I-Bank Executive Staff, Water Bank Bond Counsel and Financial Advisor participated in a call with Bond Counsel for Borrowers participating in the WIFIA program financing and their Bond Counsel to discuss the unique project financing issues;
- On April 29, 2022; Executive Director Zimmer, Chief Financial Officer Kaltman, the Financial Advisor team at PFM and Bond Counsel Rich Nolan participated in a call with legal and underwriting staff at US EPA's WIFIA Program to close on a \$221.3 million loan;
- On April 29, 2022; Executive Director Zimmer, Chief Financial Officer Kaltman, Accountant Wendy Li, and DEP Bureau Chief Jenkins participated in a meeting with representatives of Ridgewood Water at the I-Bank Office to discuss prospective water infrastructure projects;
- On April 27, 2022; COO Fernandez and Project Manager Rolon conducted a presentation highlighting the Transportation Bank at the NJ TransAction Conference held in Atlantic City;
- On April 25, 2022; Executive Director Zimmer, Assistant Director, Legal & Compliance Officer Karp, and DEP Bureau Chiefs Jenkins and Hauch participated in a meeting with representatives of the City of Camden at the I-Bank Office to discuss prospective water infrastructure projects;
- On April 18-22, 2022; Executive Director Zimmer and Project Manager Rolon attended the CIFA Annual Summit conference in Washington, DC;
- On April 18, 2022; Executive Director Zimmer participated on a call with Carolyn Cannella of the Governor's Office to discuss the potential financing of the South Jersey Wind Port; and
- The next I-Bank Board meeting is scheduled for **June 9, 2022**, at 10:00 am.

There were no comments or questions.

## 6. PUBLIC COMMENTS:

Chairperson Briant invited comments from the public. There were no comments.

## 7. UNFINISHED BUSINESS:

- A. DEP Bureau Chief, Mr. Charles Jenkins reported on the status of the Water Bank project pipeline noting forty-five outstanding projects have received either Authorization to Award or Certification totaling \$656.5 million and that \$426.6 million of this total is associated with FEMA grant funds. Executive Director Zimmer added that a number of project sponsors are also requesting to close on their project loans after the end of this fiscal year, June 30, to provide more time for construction. All certified projects are being closely monitored by the program for closing before fiscal year end.

There were no comments or questions.

- B. Chief Operating Officer Fernandez reported on the status of the Transportation Bank project pipeline noting that no new project applications have been submitted. For SFY22, the Transportation Bank has allocated a total of 4 projects for an amount of \$7.1 million. Overall, the program has allocated 24 projects totaling \$100.3 million. The next round of allocations is scheduled to occur in early July 2022.

There were no comments or questions.

- C. Executive Director Zimmer reported on the status of the Water Bank Construction and SAIL Loan Programs noting the Water Bank closed four loans in April 2022 totaling \$9.9 million for a fiscal year-to-date total of \$205.8 million. The Program disbursed \$39.7 million of funds to fifty-eight projects in April 2022 for a fiscal year-to-date total of \$382.4 million. The Water Bank has 229 projects with open construction loans totaling \$1.517 billion and has disbursed \$845 million to 224 projects or approximately 56.0% of the Program's outstanding short-term loan balance.

Executive Director Zimmer next reported on the status of the Transportation Construction Loan Program noting that the Transportation Bank closed no loans in April 2022 for a fiscal year-to-date total of \$1.1 million. The Program disbursed \$1.7 million in April for a fiscal year-to-date total of \$11 million. The Transportation Bank has fourteen projects with open construction loans totaling \$65.1 million and has disbursed \$33.4 million to these fourteen projects or approximately 51.3% of the Program's outstanding short-term loan balance.

There were no comments or questions.

- D. Executive Director Zimmer next reported that there were no outstanding Requests for Proposals on which to report.
- E. Executive Director Zimmer reported on the closing of a WIFIA loan with USEPA for \$221,323,600 as well as the associated sale for the first tranche of the taxable NJ Infrastructure Bank Environmental Infrastructure Bonds Series 2022C-W1 in the amount of \$56,365,400 to USEPA and the Series 2022 I-W1 in the amount of \$6,716,300 to the NJIB. These bonds along with approximately \$83 million of funding from the DEP (including \$18 million of Principal Forgiveness) provided funding for 10 projects for 5 borrowers. It is anticipated that the savings from the WIFIA loan will allow for an additional \$103 million of projects to be funded.

## 8. NEW BUSINESS:

- A. Executive Director Zimmer introduced Chief Financial Officer Kaltman to present Resolution No. 22-28 accepting the February 2022 Treasurer's Report. In March 2022, the I-Bank earned revenues of \$643,529 consisting of \$428,181 in administrative fees, \$220,165 in interest income on Direct Loans, a loss of (\$138,150) in investment income on cash-on-hand due to an adverse mark-to-market accounting charge against I-Bank short-term investments, and \$133,333 in TTF State Appropriations for Operations. The I-Bank has earned \$6,235,423 to date, or 86% of the SFY2022 budgeted amount. The I-Bank incurred expenses during the month of March for products and services totaling \$737,437. The I-Bank has incurred expenses to date totaling \$6,013,254 or 86% of the SFY2022 YTD budgeted amount.

Chief Financial Officer Kaltman asked if there were any comments or questions. Hearing none, Chairperson Briant requested a motion for approval.

Mr. McManus moved for the approval of the minutes. Mr. Russo seconded the motion.

Nancy Collazo conducted a roll call. The motion was carried out with all eight members voting in favor of the motion.

- B. Executive Director Zimmer introduced Resolution No. 22-29 approving the New Jersey Transportation Infrastructure Financing Program Financial Plan which outlines the financing program for SFY2023 including interest rates, fees, and terms for long-term financing.

Executive Director Zimmer asked if there were any comments or questions. Hearing none, Chairperson Briant requested a motion for approval.

Mr. McManus moved for the approval of the minutes. Mr. Hauch seconded the motion.

Nancy Collazo conducted a roll call. The motion was carried out with all eight members voting in favor of the motion.

- C. Executive Director Zimmer introduced Assistant Director, Legal & Compliance Officer Karp to present Resolution No. 22-30 authorizing the Execution & Delivery of an Indenture of Trust for the Transportation Infrastructure Financing Program as an "open" indenture. The Transportation Bank does not have enough construction complete projects to form a diversified long-term financing pool. As such, there is no associated bond sale at this time. Instead, long-term loans made in the near future will be direct loans pledged into the indenture until there are enough loans to create a highly rated, diversified bond pool.

Assistant Director, Legal & Compliance Officer Karp asked if there were any comments or questions. Hearing none, Chairperson Briant requested a motion for approval.

Mr. Longo moved for the approval of the minutes. Mr. Kocsis seconded the motion.

Nancy Collazo conducted a roll call. The motion was carried out with all eight members voting in favor of the motion.

- D. Executive Director Zimmer introduced Assistant Director, Legal & Compliance Officer Karp to present Resolution No. 22-31 authorizing the Transportation Bank Direct Loan Program to provide an alternative long-term financing vehicle to a bond issuance. The resolution sets qualifying criteria for the Program including a \$2 million per project cap and a \$5 million per borrower cap but also includes the authorization for the Board to deviate from the qualifying criteria.

Assistant Director, Legal & Compliance Officer Karp asked if there were any comments or questions. Hearing none, Chairperson Briant requested a motion for approval.

Mr. Moore moved for the approval of the minutes. Mr. McManus seconded the motion. Nancy Collazo conducted a roll call. The motion was carried out with all eight members voting in favor of the motion.

- E. Executive Director Zimmer introduced Resolution No. 22-32 authorizing the Transportation Bank Project Certifications. This Resolution certified eight projects for long-term financing through the I-Bank's Transportation Bank financing program. The Board must certify every project for long-term financing as a prerequisite to a Project Sponsor receiving a long-term Transportation Bank loan, and all of these projects have satisfied the conditions and requirements of the Transportation Bank Financing Program.

Executive Director Zimmer asked if there were any comments or questions. Hearing none, Chairperson Briant requested a motion for approval.

Mr. Longo moved for the approval of the minutes. Mr. McManus seconded the motion. Nancy Collazo conducted a roll call. The motion was carried out with all eight members voting in favor of the motion.

- F. Executive Director Zimmer introduced Chief Operating Officer Fernandez to present Resolution No. 22-33 authorizing SFY2022 Transportation Bank Direct Loans. This Resolution authorized the I-Bank to make SFY2022 Direct Loans to five of the Borrowers with projects certified in the previous Resolution. Each direct loan will be pledged to the Transportation Bank Master Indenture authorized under Agenda Item 8C. A portion of these loans may be refinanced with public bonds in the future to provide cash flow for new project loans.

Chief Operating Officer Fernandez asked if there were any comments or questions. Hearing none, Chairperson Briant requested a motion for approval.

Mr. Moore moved for the approval of the minutes. Mr. McManus seconded the motion. Nancy Collazo conducted a roll call. The motion was carried out with all eight members voting in favor of the motion.

- G. Executive Director Zimmer introduced Chief Financial Officer Kaltman to present Resolution No. 22-34 authorizing a two-year extension of the contract for Trustee/Escrow Agent Services. The current contract authorized under Resolution No.20-17 allowed for an additional two-year term extension subject to Board approval and pursuant to the terms and conditions set forth in the original agreement.

Chief Financial Officer Kaltman asked if there were any comments or questions. Hearing none, Chairperson Briant requested a motion for approval.

Mr. Russo moved for the approval of the minutes. Mr. Moore seconded the motion. Nancy Collazo conducted a roll call. The motion was carried out with all eight members voting in favor of the motion.

- H. Executive Director Zimmer introduced Resolution No. 22-35 approving SFY2022 and SFY2023 Water Bank Construction Loans to Passaic Valley Water Commission for project no. 1605002-002 for an amount not to exceed \$72 million and to NJ American Water Company for project no. 0712001-016 for an amount not to exceed \$28 million, both for lead service line replacement projects.

Executive Director Zimmer asked if there were any comments or questions. Hearing none, Chairperson Briant requested a motion for approval.

Mr. Longo moved for the approval of the minutes. Mr. Hauch seconded the motion. Nancy Collazo conducted a roll call. The motion was carried out with all eight members voting in favor of the motion.

- I. Executive Director Zimmer introduced Chairperson Briant to present Resolution No. 22-36 authorizing I-Bank Board Meetings for the Balance of Calendar Year 2022 to be conducted both in person as well as through communications equipment and directs the Executive Director to notice the meetings in accordance with the NJ Open Public Meetings Act.

Chairperson Briant asked if there were any comments or questions. Hearing none, Chairperson Briant requested a motion for approval.

Mr. Briant moved for the approval of the minutes. Mr. Longo seconded the motion. Nancy Collazo conducted a roll call. The motion was carried out with all eight members voting in favor of the motion.

## **9. EXECUTIVE SESSION:**

Chairperson Briant asked if there was a need for an Executive Session or any further business. Executive Director Zimmer responded to both that there was not.

Chairperson Briant then asked for a motion for adjournment.

Mr. McManus moved for the approval of the minutes. Mr. Russo seconded the motion. Nancy Collazo conducted a roll call. The motion was carried out with all eight members voting in favor of the motion.

The meeting was adjourned at 11:01 am.



**RESOLUTION NO. 22 - 28**

**RESOLUTION AUTHORIZING APPROVAL OF THE  
MARCH 2022 TREASURER'S REPORT**

**WHEREAS**, the New Jersey Infrastructure Bank (the "I-Bank") has reviewed the Treasurer's Report for March 2022; and

**WHEREAS**, the I-Bank has placed in its files certain correspondence relating to expenses incurred in relation to the I-Bank.

**NOW THEREFORE, BE IT RESOLVED**, that the I-Bank hereby accepts the Treasurer's Report for March 2022 and requests that the same be entered into the record.

Adopted Date: May 12, 2022

Motion Made By: Mr. James McManus

Motion Seconded By: Mr. Michael Russo

Ayes: 7

Nays: 0

Abstentions: 0

**RESOLUTION NO. 22 - 29**

**RESOLUTION APPROVING THE NEW JERSEY TRANSPORTATION INFRASTRUCTURE FINANCING PROGRAM  
SFY2023 PROGRAM YEAR FINANCIAL PLAN**

**WHEREAS**, pursuant to N.J.S.A. 58:11B-22.3, the New Jersey Infrastructure Bank (the “I-Bank”) is required to submit to the Legislature on or before May 15, 2022, a financial plan designed to implement the financing of the transportation projects to be approved pursuant to N.J.S.A. 58:11B-20.2 (“Transportation Bank Financial Plan”); and

**WHEREAS**, the Transportation Bank Financial Plan shall contain an enumeration of the bonds which the I-Bank intends to issue, including the amounts, terms, and conditions for the loans, a list of loans to be made to participants, including the terms, conditions, and anticipated rate of interest per annum; and

**WHEREAS**, the Transportation Bank Financial Plan also includes a complete operating and financial statement covering the I-Bank’s proposed operations during the forthcoming financing program year including the amount of income anticipated from all sources, the schedule of fees and charges collected from borrowers in connection with the I-Bank Transportation Bank loans and a summary of the status of each project for which loans have been made and a description of the major impediments to the accomplishment of the planned projects; and

**WHEREAS**, I-Bank’s approval of the State Fiscal Year (“SFY”) 2023 New Jersey Transportation Bank Financing Program Financial Plan is critical to its ability to issue loans and administer the Transportation Bank.

**NOW THEREFORE BE IT RESOLVED THAT** the I-Bank Board of Directors hereby approves the proposed SFY2023 New Jersey Transportation Infrastructure Financing Program Financial Plan substantially in the form as the Transportation Bank Financial Plan attached hereto as Exhibit A with such changes thereto as (i) shall be required in accordance with the SFY 2023 budget approved by the I-Bank; and (ii) as the Executive Director, in consultation with the Chairperson or Vice-Chairperson, shall approve and authorize; and

**BE IT FURTHER RESOLVED THAT** the Executive Director, in consultation with the Chairperson or Vice-Chairperson, is hereby authorized and directed to take such other actions as are necessary or desirable to publish, file and distribute the Transportation Bank Financial Plan, including its printing and binding. The recitals set forth above are incorporated herein by reference as if set forth at length herein.

This Resolution shall become effective in accordance with the terms of Section 4(i) of the Act (N.J.S.A. 58:11B-4(i)).

Adopted Date: May 12, 2022

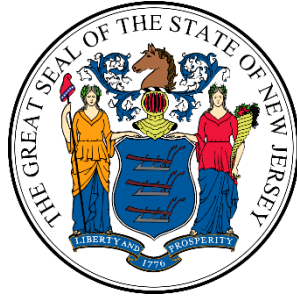
Motion Made By: Mr. James McManus

Motion Seconded By: Mr. Paul Hauch

Ayes: 8

Nays: 0

Abstentions: 0



# **NEW JERSEY TRANSPORTATION INFRASTRUCTURE FINANCING PROGRAM**

## **STATE FISCAL YEAR 2023 FINANCIAL PLAN**

Submitted to the State Legislature by:

**The New Jersey Infrastructure Bank  
The New Jersey Department of Transportation**

**MAY 2022**



## **New Jersey Infrastructure Bank**

### **Public Board Members**

Robert A. Briant, Jr., Chairperson

Mark Longo, Vice Chairperson

Jack Kocsis, Jr., Treasurer

James McManus, Jr., Secretary

### **Ex-Officio Members**

Elizabeth Maher Muoio, New Jersey State Treasurer

Diane Gutierrez-Scaccetti, DOT Commissioner

Shawn LaTourette, DEP Commissioner

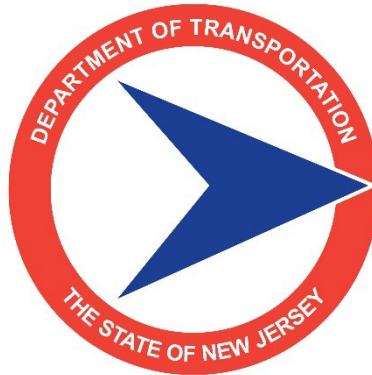
Sheila Y. Oliver, DCA Commissioner

### **Executive Director**

David E. Zimmer, CFA

### **Mailing Address**

3131 Princeton Pike  
Building 4, Suite 216  
Lawrenceville, NJ 08648



# **New Jersey Department of Transportation**

## **Mailing Address**

1035 Parkway Avenue  
Trenton, NJ 08625-0600  
(609) 963-2200

## **Location Address**

David J. Goldberg Transportation Complex  
1035 Parkway Avenue  
Ewing, NJ 08618

**Report to the Legislature  
Pursuant to**

P.L. 1985, Chapter 334  
New Jersey Infrastructure Trust Act  
as amended including P.L.2016, c.56

**By**

**Robert A. Briant, Jr.**  
Chairperson  
New Jersey Infrastructure Bank

**Diane Gutierrez-Scaccetti**  
Commissioner  
New Jersey Department of Transportation

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## I. INTRODUCTION/PROGRAM OVERVIEW

The New Jersey Infrastructure Bank<sup>1</sup> (the “I-Bank” or “NJIB”) presents this State Fiscal Year (“SFY”) 2023 New Jersey Transportation Infrastructure Financial Plan (the “Financial Plan”) to the New Jersey State Legislature. This report is required by the New Jersey Infrastructure Trust Act, N.J.S.A. 58:11B-1 *et seq.* (the “Act”) which establishes, among other things, the “New Jersey Transportation Infrastructure Financing Program” (the “Transportation Bank”).

In accordance with the Act, the I-Bank, and the New Jersey Department of Transportation (“DOT” or “Department”) jointly administer the Transportation Bank to make low interest loans to New Jersey counties, municipalities, and regional transportation authorities, or any other political subdivision or instrumentality of the State of New Jersey (“New Jersey” or “State”) for critical transportation infrastructure projects.

In January of 2022, the DOT published the Project Priority Report that included a discussion of project eligibility requirements, the Transportation Infrastructure Bank Priority System (“Priority System”) and the initial Transportation Infrastructure Project Priority List (“PPL”) (“January Report”) for SFY2023.<sup>2</sup>

This SFY2023 Financial Plan discusses the following Transportation Bank initiatives for SFY2023:

- The loan application process, parameters, and standards of approval for loans;
- The allocation of funds for each quarter to be utilized for project loans;
- Available loans, loan terms, and the loan closing processes to be utilized in SFY2023 for Projects identified in the PPL as updated and amended each quarter in SFY2023; and
- A summary of the status of the projects which received short-term loans from the I-Bank in SFY2022.

### ELIGIBLE PROJECTS / ELIGIBLE BORROWERS

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In accordance with the Act, the Transportation Bank is authorized to finance surface transportation, marine and aviation projects (individually “Project”; collectively, “Projects”).

#### **Transportation Projects**

The Transportation Bank is authorized to finance capital projects for public highways, approach roadways and other necessary land-side improvements, ramps, signal systems, roadbeds, transit lanes or rights of

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1. The I-Bank is neither a “bank” nor a “savings bank” within the meaning the New Jersey Banking Act of 1948, or a “national banking association” or a “federal savings bank” within the meaning of the National Bank Act, nor is it subject to the supervision of New Jersey Department of Banking and Insurance (“DOBI”) or the Office of the Comptroller of the Currency (“US Treasury Department”), the Board of Governors of the Federal Reserve System or the Federal Deposit Insurance Corporation. The I-Bank does not accept “deposits” within the meaning of the New Jersey Banking Act of 1948 or the National Bank Act, and its obligations are not insured by the Federal Deposit Insurance Corporation.

2. The SFY2023 January Report is available at: <https://cdn.njib.gov/njitb/publications/sfy2023/FY23%20Trans%20January%20Report.pdf>

way, pedestrian walkways and bridges connecting to passenger stations and servicing facilities, bridges, and grade crossings (“Transportation Project”). Eligible borrowers are local government units, including counties, municipalities, municipal/county/regional transportation authorities, or any other political subdivision of the State, authorized to construct, operate, and maintain public highways or Transportation Projects. A detailed discussion of project and borrower eligibility is set forth in the SFY2023 January Report.

Transportation Bank financing is limited to Transportation Project costs incurred, including construction costs, engineering, legal counsel, financial advisor, permitting, project management and other costs or fees as recognized in N.J.A.C. 16:20B-4, excluding any costs for which DOT or other grants have been received. Grant funds received prior to loan closing must be utilized, by the local government unit that is seeking a Transportation Bank loan (“Project Sponsor”) to cover a portion of the project costs. Grant funds received after loan closing may be used towards the repayment of the Transportation Bank loan.

### **Marine Projects**

The Transportation Bank is authorized to finance projects to develop or improve public port or terminal facilities, and related infrastructure or capital equipment, including, but not limited to, any design, planning, acquisition, construction, reconstruction, relocation, installation, removal, repair or rehabilitation project that facilitates, increases the efficiency of, or improves the capacity for inter-modal trade and cargo movement for commercial or industrial facilities that are part of port or terminal facilities. Such projects include dredging, soil hardening, paving of the port facilities, and ferry terminal facilities designed for public use and the transportation of people and goods such as watercraft, docks, wharves, piers, slips, storage places, sheds, warehouses, and related infrastructure.

### **Aviation Projects**

The Transportation Bank is authorized to finance projects to develop or improve county or municipal airport facilities, or airport facilities owned or operated by a regional transportation authority that is not a bi-state authority, and related infrastructure or capital equipment, including any design, planning, acquisition, construction, reconstruction, relocation, installation, removal, repair or rehabilitation project that facilitates, increases the efficiency of, or improves the capacity for inter-modal trade for commercial and industrial facilities that are part of airport facilities. Such projects include any project to develop or improve terminal facilities designed for public use and for the transportation of people and goods, such as airports, runways, berms, basins, storage places, sheds, warehouses, and related infrastructure.

## **PROJECT FUNDING METHODOLOGY / PROJECT LIST**

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The Priority System and ranking methodology are the basis for determining the allocation of the limited Transportation Bank funds to projects. The Priority System incorporates the project eligibility requirements of N.J.A.C. 16:20A and 16:20B for Transportation Projects. Full detail of the Priority System and ranking methodology are set forth in the SFY2023 January Report (see footnote 2 on page 1).

### **Transportation Project Priority List**

Identification of a Project on the PPL is a prerequisite to receiving Transportation Bank financing. Projects are placed on the ensuing year's PPL according to DOT's preliminary project ranking upon receipt of an application submission by a project sponsor (each, a "Project Sponsor") which is discussed further in Section II, Part B, "Financing Program/Application Process." The initial list of Projects eligible for funding in SFY2023, pursuant to the SFY2023 Priority System, is set forth in the PPL. The Projects on the initial SFY2023 PPL consist of a pool of **thirty (30)** Projects with a total estimated cost of **\$290.1 million**.

The I-Bank may amend the PPL up to four times during each Financing Program year. The SFY2023 PPL is expected to be amended at the beginning of each quarter (July, October, January, and April). Projects will be placed on an amended PPL upon Transportation Bank staff's review and completion of initial due diligence. Initial due diligence consists of: (i) gathering information relevant to assessing project eligibility; (ii) determining Project Sponsor eligibility (i.e., credit worthiness); (iii) deciding reasonableness of cost estimates; and (iv) forecasting a project application and construction schedule.

### **Transportation Project Funding Allocation**

Projects on the PPL are allocated funds upon the Project Sponsor's representation that the construction award will meet the ensuing year's construction readiness standards, as outlined in the applicable January Report. At the beginning of each quarter, the DOT applies base ranking to all projects for which initial due diligence is complete. Up to an additional 100 ranking points are applied to projects based on readiness to proceed and loan status as set forth in the January Report. At that time, Projects are placed on the amended PPL in ranked order.<sup>3</sup> Funds allocated for that quarter, as set forth in the Transportation Bank's Financial Plan, in addition to any funds unallocated from prior quarters, will be applied to projects in ranked order. The Transportation Bank notifies Project Sponsors of Project allocation through a "Funding Allocation Notice." At the discretion of the I-Bank's Executive Director, up to 50% of the quarterly allocation may be prioritized to fund eligible cost increases of Projects for which funds have already been allocated in a prior quarter. Such cost increases are available to Projects for up to 20% of total Project cost. Cost increases in excess of this threshold amount require DOT and I-Bank approval.

### **Deallocation and Penalty for Bypass**

Upon receiving allocation, most projects have 12 months (24 months for bridge projects and three years for more complicated projects) to receive concurrence of award from the DOT. Failure to achieve concurrence of award from the DOT within that timeline, may result in the forfeiture of the allocated funds through a deallocation along with a penalty reduction of 5 points from the overall rating of the project. Projects that are deallocated will remain on the PPL for another quarter before being removed

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<sup>3</sup> The SFY2022 3<sup>rd</sup> Amended Interim PPL was published on 1/20/2022 and is available at:

<https://cdn.njib.gov/nitib/publications/sfy2023/SFY22Trans3rdAmendedPPL.pdf>

entirely from the PPL. The I-Bank will make efforts to communicate to borrowers to determine their intention to remain on the PPL.

The anticipated SFY2023 appropriation of funds for surface Transportation Projects is as follows:

<b>Projected Availability of Funds for SFY2023</b>			
<b>Current Year Appropriations</b>	<b>Current Year Leverage</b>	<b>Prior Year Available Funds<sup>a</sup> (including leverage)</b>	<b>Total Available SFY2023</b>
\$21 million	\$21 million	\$108.4 million	<b>\$150.4 million</b>

<sup>a</sup> Prior Year Available Funds include unutilized appropriations, interest earned, fees.

**Marine and Aviation Project Funding Allocation**

Funds to finance Marine or Aviation Projects have not yet been appropriated by the State Legislature. While projects may be placed on the PPL based on the ranking methodology set forth in the January Report, allocations will only be made subject to the specific appropriation of funds by the State Legislature for marine and aviation projects which are separate and apart from the funds appropriated by the State Legislature for surface Transportation Projects.

**PROJECT FINANCING**

The Transportation Bank offers low interest loans designed to significantly reduce the financing cost of a borrower participating in the Transportation Bank (hereinafter, “Borrower”) relative to the financing cost associated with independent financing. Loans will be offered by the I-Bank to the highest Priority System ranked, construction ready projects on a quarterly basis.

Because the Transportation Bank is modeled after the longstanding New Jersey Environmental Infrastructure Financing Program (the “Water Bank”), Project Sponsors that have financed environmental infrastructure projects through the Water Bank will find the financing processes of the Transportation Bank familiar. Each Project financed through the Transportation Bank initially receives a Short-Term Construction Financing Program Loan (“Short-Term Loan”) to finance the cost of engineering work, certain soft costs, and construction that, thereafter, is refinanced through long-term financing (“Long-Term Loan”). This structure offers: (i) low-cost capital (through a Short-Term Loan) from Project design through construction completion; (ii) generally no debt service repayment until after construction completion; (iii) a Long-Term Loan maturity that is the lesser of the Project’s useful life as certified by the Project Sponsor’s engineer or 31 years; and (iv) significantly lower interest rates on Long-Term Loans than independent financing.

Project Sponsors may close on a Short-Term Loan after the Transportation Bank has certified at least one of the Project's contract(s). Funds become available to the Project Sponsor upon Short-Term Loan closing

and are disbursed upon the Transportation Bank's receipt of requisitions and contractor invoices as discussed in Section II, Part D, "Short-Term Construction Financing Program; Loan Closing."

Short-Term Loan interest rates will be set monthly as directed by the I-Bank's Board of Directors ("Board"). Financing will be provided from a combination of funding sources. A detailed discussion of short-term financing terms and conditions may be found in Section II, Part D, "Short-Term Construction Financing Program; Loan Closing."

## ADVANTAGES OF TRANSPORTATION FINANCING

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Program participants realize significant benefits and cost-saving measures through the following program features:

- Available Financing During Construction – Through Short-Term Loans, funds are available upon certification of the Project's engineering contract through to Project construction completion. Funds are disbursed through an expedited requisition review process (usually 2-14 business days), relieving Borrowers from utilizing cash-on-hand or costly bank lines of credit, which enables payments to contractors on a timely basis;
- Generous Allowable Costs – Associated project costs may be financed through the Transportation Bank upon costs incurred, including engineering design, project management, and other Project-related fees (i.e. legal and other advisory services) necessary to finance or construct the Project). Payment by the Borrower of costs for services rendered is not a prerequisite to a Borrower's submission of requisitions or receipt of corresponding funds from the I-Bank. Such funds are disbursed upon the I-Bank's receipt and review of submitted contractor invoices;
- Interest Cost Savings During Construction – In SFY2023, Borrowers will receive a Short-Term Loan with an interest rate determined by the Board that is set monthly and shall be based on the I-Bank's cost of short-term funds and market rates. For example, the short-term loan rate on March 1, 2022 was set at 0.725%. Borrowers are charged interest only on funds that have been drawn. This feature produces an advantage over the New Jersey public Bond Anticipation Notes (BANS) market and highlights the cost efficiency of a Transportation Bank Short-Term Loan;
- Debt Service Cash Payments Deferred During Construction – During Project construction, payment of principal, interest, and fees, including the Loan Origination Fee, are generally deferred until construction completion. The accrued interest may be capitalized as part of the Long-Term Loan refinancing and restructuring;
- Interest Cost Savings During Long-Term Financing – It is anticipated that Long-Term Loans will be issued in SFY2023, financed in part from the proceeds of the sale of I-Bank long-term bonds (defined hereinafter) and will bear an interest rate of up to 50% of the I-Bank's all-in market rate. This lower cost of funds is accomplished by financing the non-I-Bank bond portion of the Long-Term Loan with funds appropriated to the Transportation Bank through the DOT from the Transportation Trust Fund at zero percent. In the current interest rate environment, this financing

structure results in interest savings of approximately 20% of the total Long-Term Loan amount for a Project having a useful life of 31 years when compared to the cost of an average “A” rated Borrower financing their Project independent of the Transportation Bank. In the event interest rates continue to rise, interest savings would increase proportionately;

- Level Debt Service / No Front-Loading Requirement – When issuing their own general obligation debt, local government units are required to “front load” their debt service schedule. This results in debt service payments that are larger in the early years of the loan and decline over time. The Transportation Bank provides for level debt service throughout the life of the loan, normalizing annual payments for budgetary purposes and for taxpayers;
- Transportation Bank loan applicants are not required to deposit the New Jersey Local Bond Law five percent (5%) down payment requirement;
- Flexible Long-Term Loan Maturity – Shorter amortization schedules are available for Borrowers who wish to minimize the repayment period of their loan.



Essex County, Dougal Bridge Replacement

## II. FINANCING PROGRAM

### A. SOURCES / USES OF FUNDS – FUNDING ALLOCATIONS

#### **Surface Transportation Projects – Funding Sources**

Beginning in SFY2018, the State Legislature commenced annual appropriations of State Local Aid Infrastructure Funds (“LAIF”) to the I-Bank’s Transportation Infrastructure Bank Fund as a separate program to provide an avenue of financing to surface Transportation Projects. State LAIF appropriations from SFY2018 through SFY2022 total \$113 million, of which \$2.6 million was appropriated in each of the first three years and \$1.6 million in each of the last two years to the I-Bank to cover Transportation Bank administration and operation expenses. Any funds not used for such expenses are made available for lending purposes.

In SFY2023, it is anticipated that an additional \$22.6 million appropriation of LAIF funds will be received, of which \$1.6 million is expected to be made available for Transportation Bank administration and operating expenses. The Transportation Bank may opt to supplement short-term funds by utilizing private sources of funding including, but not limited to, the I-Bank’s \$150 million *Extended Commercial Paper* (ECP) by which the I-Bank would access proceeds from the sale of notes and obligations of the Transportation Bank Program.

If additional funds are appropriated by the State Legislature to the I-Bank for specific types of Transportation Projects, such funds will be dedicated to those projects that meet the criteria set forth in the appropriation. These funds would be allocated to eligible projects and financed in accordance with the terms and conditions of the ranking methodology set forth in the January Report and the Act.

In addition to utilizing State funds and private capital, the I-Bank has the ability to seek funding from certain federal financing programs under favorable terms to finance Transportation Projects through its designation by the Federal Highway Administration as a State Infrastructure Bank (“SIB”). The I-Bank is considering seeking federal funding pursuant to the Bipartisan Infrastructure Law (BIL), the Infrastructure Investment and Jobs Act (IIJA)/ Transportation Infrastructure Financing and Innovation Act (“TIFIA”) for Transportation Projects in rural communities that are financed through the I-Bank.

In SFY2023, Transportation Bank administration and operations will be funded first by interest earnings on undisbursed funds, administrative fees earned on closed loans, and then by the \$1.6 million in operating funds appropriated for administration and operations.

Appropriated funds available for SFY2023 may be allocated for loans at the beginning of each quarter (July, October, January, and April) based on the needs of prioritized Projects in the preceding quarter. Allocations are committed to the highest ranked Transportation Projects during each quarter as discussed in the “Application Process” section below. Any excess funds not utilized in a given quarter shall be allocated to Transportation Projects in the next following quarter to the point of available funds. Any additional funding received by the I-Bank for Transportation Project loans from either private or federal sources shall be applied over the remaining fiscal year quarters in SFY2023 unless otherwise required by law.

### **Marine and Aviation Projects – Funding Sources**

In the event that funds are appropriated for Aviation or Marine Projects, such funds will be dedicated to those projects that meet the criteria as set forth in the appropriation. These funds would be allocated to eligible projects and financed in accordance with the terms and conditions of the Transportation Bank. Funds will be committed to the highest ranked Aviation and Marine Projects in accordance with the ranking criteria set forth in the SFY2023 January Report.

### **Post-Emergency Projects**

The I-Bank is authorized to utilize federal emergency or relief funds subsequent to a federal or state declaration of emergency to make loans or grants to qualifying Transportation Projects as set forth in N.J.S.A.58:11B-19.1. Eligibility for these projects shall be determined in accordance with the terms of any such appropriation. Pursuant to this authorization, the I-Bank may make non-Project related loans and provide other assistance, including Customer Assistance Program (“CAP”) payments and other financial assistance, on behalf of, or as a conduit for local government units in accordance with the criteria determined by the appropriation.

## B. APPLICATION PROCESS

### Overview

Loan applications are accepted through the I-Bank's *NJ-Moves* online portal at any time throughout the year for all projects under the Transportation Bank. Funding is prioritized for Projects which are construction ready. Applications are not accepted after construction advertisement unless the advertisement is withdrawn, and the receipt of bids is cancelled. A separate application is required for each Project.

Loan applications will only be accepted from an individual specifically authorized by a Project Sponsor to submit the loan application as an authorized representative on behalf of the Project Sponsor (the "Authorized Representative"). Applications shall conform with DOT regulations including, but not limited to, the Standards and Specifications set forth in N.J.A.C. 16:20B-5.1 and 5.2 and N.J.A.C. 16:20A-5.1 and 5.2.

The loan application process is as follows:

### Project Information Submission

The Authorized Representative initiates an application to apply for Transportation Bank financing by submitting (i) information identifying the Project Sponsor, (ii) general project information, (iii) project location map, (iv) initial estimated cost breakdown, and (v) anticipated project schedule.

### Application Meetings / Conference Calls

Upon receipt of the Project Information Submission, an application meeting may be held (either in person or via conference call) with each applicant and its professional advisors, as necessary, to provide the applicant with an overview of the application and review process. Topics covered at the meeting may include guidance on submission requirements, costs, project scope-of-work, environmental compliance, project schedule, civil rights requirements, and application review process. Thereafter, the Project Sponsor must update or confirm the information in their application quarterly until notified by the I-Bank that funds have been allocated for the Project. If the Project Sponsor fails to submit a quarterly update for three consecutive quarters, the project will be bypassed. If at any point in time up to loan closing, the Project Sponsor decides not to finance the Project through the Transportation Bank, the I-Bank must be notified in writing immediately, and the project will be bypassed.

At the onset of each quarter, the Transportation Bank updates the PPL and allocates available funds to the highest ranked and construction-ready projects. The I-Bank formally notifies the Project Sponsors for which Transportation Bank funding has been allocated that: (i) project funding has been reserved in an amount up to the project's total estimated project cost (inclusive of the I-Bank's initial Loan Origination Fee); (ii) the allocation is contingent upon the Project Sponsor's receipt of Concurrence of Award from the Department by the date set forth in the allocation letter ("Scheduled Award Date"); and (iii) additional financial and project information submissions will be required. The Project Sponsor's failure, due to inaction by it or its agents, to receive Concurrence of Award from the Department on or before the



Scheduled Award Date, will result in: (i) forfeiture of undisbursed project funds; (ii) de-obligation of long-term financing for project funds dispersed to date; and (iii) loss of five ranking points for the Project on future PPLs. For a full discussion of Concurrence of Award from the Department, see section II, C(b), “Contract Review/Construction Contract Submission/Construction Contract Award.”



Centerton Road Bridge Demolition, Burlington County

### **Financial Information Submission (“Financial Addendum Form”)**

After the I-Bank has allocated funds to a Project, and once a Project Sponsor is ready to proceed with project financing, financial information must be submitted electronically through **NJ-Moves.com**. This submission requires the Project Sponsor to provide the information necessary to demonstrate the Project Sponsor’s ability to meet the I-Bank’s creditworthiness requirements as described in the I-Bank’s credit policy (“Credit Policy”). The Credit Policy and related guidelines are available for download from the Policies and Procedures page of the I-Bank website at:

[https://www.njib.gov/nj/Legal+Structure+%252F+Policies.44.https://cdn.njib.gov/njib/policies/njib\\_credit\\_policy\\_2018.pdf](https://www.njib.gov/nj/Legal+Structure+%252F+Policies.44.https://cdn.njib.gov/njib/policies/njib_credit_policy_2018.pdf)

While the actual requirements may vary by type of Project and applicant (i.e., municipal, county or authority), required financial information for each project shall include: (i) information pertaining to official action (declaration of intent to reimburse cost, ordinances, and resolutions) and the status thereof; (ii) Local Finance Board application authorization; and may include any other information needed by the Transportation Bank to evaluate the creditworthiness of the application.

### C. CONTRACT REVIEW

All Projects must undergo a review of the applicable contracts to receive concurrence of construction contract award from the DOT, a prerequisite to qualifying for long-term financing from the Transportation Bank.

#### **Engineering Information Submission**

a. **Engineering Design Contract:**

For Project Sponsors that seek financing for engineering design costs, a copy of the executed engineering contract must be submitted for review and I-Bank certification (“Engineering Design Contract”). The Engineering Design Contract must include: (i) the scope of work; (ii) the total contract value; and (iii) the personnel identified as qualified to perform the tasks by title and projected rate of pay. The Project Sponsor shall submit the resolution authorizing the Engineering Design Contract.

b. **Construction Management Contract:**

Project Sponsors who are financing construction management and inspection costs must submit the engineering services contract which will be utilized for project construction management (“Construction Management Contract”) for Transportation Bank certification.

Construction Management Contracts must include (i) the scope of work, (ii) the total contract value, and (iii) the personnel identified as qualified to perform the tasks (by title and rate of pay) for services during bidding,

construction, inspection, and project performance. The hours associated with the scope of work should match the values present in the final signed contract. Project Sponsors shall also submit a copy of the resolution authorizing the Construction Management Contract.

**CERTIFICATION OF THE DESIGN CONTRACT AGREEMENT AND THE CONSTRUCTION MANAGEMENT CONTRACT AGREEMENT ARE BASED ON THE FOLLOWING CRITERIA:**

- 1) The scope of work aligns to the Project and is necessary for the successful completion of the Project being financed;
- 2) The proposed cost is appropriate for the scope of work and comparable to other similarly situated Transportation Projects; and
- 3) The Project Sponsor has a valid resolution in place authorizing the design and/or construction management work for the Project.

## **Construction Contract Submission**

### a. Authorization to Advertise:

Transportation Bank approval, in the form of an “Authorization to Advertise,” is required prior to a Project Sponsor’s advertisement for construction bid. The Project Sponsor provides the relevant information to secure an Authorization to Advertise by submitting the following documents: (i) Construction plans; (ii) contract specifications; (iii) Engineer’s Design Certification; and (iv) Right of Way Certification (if applicable).

### Transportation Bank Contract Documents (Plans & Specifications).

Borrowers are required to comply with the current DOT standard specifications. Project Sponsors are required to submit plans and specifications produced by a licensed Professional Engineer containing but not limited to the following:

- A set of detailed plan drawings including site plan/section/elevation views,
- Current NJ prevailing wage rates,
- Certification that the applicant has not and shall not enter into any contract with any person debarred/suspended from government contracting,
- Certification that the applicant and its contractors shall comply with discrimination and affirmative action provisions of N.J.S.A. 10:2-1 through 10:2-4,
- Bonding (performance, payment, maintenance as applicable),
- Buy American provisions (N.J.S.A. 40A:11-18),
- Statement regarding need for uniformed traffic control and bid allowance, if applicable (N.J.S.A. 40A:11-23.1),
- Asphalt Price Adjustment Procedure, if applicable (N.J.S.A. 40A:11-13),
- Fuel Price Adjustment Procedure, if applicable (N.J.S.A 40A:11-13),
- Brand name or equal, unless otherwise justified (N.J.S.A. 40A:11-13),
- Equal Employment Opportunity certification form,
- Division of Civil Rights form(s), as applicable,
- Affidavit of Non-collusion form,
- Certification of Non-Segregated Facilities form, and
- Disclosure of Investment Activities in Iran form.

The Transportation Bank retains the right to elicit additional information from the Project Sponsor in conducting its review of either a Project’s potential environmental impacts or engineering compliance

with governing regulations. Project Sponsors are advised of the requirement in the Funding Allocation Notice and provided with a link to contract specifications.

### **Highlights of Requirements**

#### **1. Environmental Compliance:**

Transportation Bank funding recipients must meet the Transportation Bank’s environmental compliance requirements. I-Bank Transportation Projects are required to comply with State environmental regulations detailed in Executive Order 215 (“EO 215”) and in the provisions of the New Jersey Register of Historic Places Act. The DOT annually determines the applicability of EO 215 to candidate projects in its Capital Transportation Programs by assessing whether EO 215 exempts such projects from environmental review (“Exemption”). It is anticipated that the DOT will continue to provide environmental reviews for I-Bank applicants in SFY2023 and approve exemptions as applicable, unless modified in a Memorandum of Understanding between the DOT and the I-Bank. Application Meetings provide a forum to discuss the Project’s EO 215 determination. In the event an EO 215 Exemption is not applicable, an applicant will be notified by DOT of the need to submit documentation demonstrating compliance with EO 215 requirements. Borrowers are also required to satisfy applicable federal, or State, and local review processes and obtain all required environmental permits and approvals.

In the event that federal funds become available in the Transportation Bank, Projects funded with federal funds will be required to meet federal compliance requirements including but not limited to Disadvantaged Business Enterprise Program (DBE), the National Environmental Policy Act (NEPA), Davis-Bacon Act, and American Iron and Steel Act as conditions of funding.

#### **2. Division of Civil Rights Compliance:**

Transportation Bank loan recipients must comply with the DOT’s Division of Civil Rights requirements.. After the Transportation Bank receives the engineer’s estimate, the Project Sponsor is provided with the set aside goal (which is incorporated by the Project Sponsor in the contract specifications).

#### **3. Prevailing Wage:**

Borrowers are required to pay not less than the prevailing wage rate to workers employed in the performance of any construction contract pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.). Applicants are furnished with relevant provisions to be inserted in contract specifications during the application process.

Upon the Transportation Bank’s completion of review of the contract submissions, environmental compliance, approval of the Division of Civil Rights, and prevailing wage, comments are submitted to the Project Sponsor requiring subsequent comment resolution followed by the Authorization to Advertise for construction. Project Sponsors are required to comply with applicable laws in their solicitation and their award of construction contract(s).

#### **b. Construction Contract Award:**

Upon bid opening and approval of the governing body, the Project Sponsor shall submit the following to the Transportation Bank related to the construction contract:

- One copy of the summary of construction bids showing all bid quantities, unit prices and extensions;
- A fully executed and sealed resolution awarding the contract to the lowest responsible bidder, subject to the approval of the Transportation Bank;
- The final sealed plans and specifications;
- Division of Civil Rights requirements: (i.e., form CR-266 and applicable CR-272, CR-273 and CR-274 forms), copy of the signed goal memorandum specifying percentage, copy of the page from the specifications showing the SBE goals, copies of advertisements for bids through public bidding)
- A certification by a licensed engineer that the final sealed plans and specifications comport with that submitted to the Transportation Bank and incorporate the technical comments received from the Transportation Bank;
- A certification from the appropriate local official that all right-of-way is available for the project, if such certification was not already provided prior to advertisement; and
- Other related documents as may be required by the Transportation Bank.

Upon the review and approval of such submissions by Transportation Bank staff, the Department will issue a concurrence of construction contract award.

Once concurrence of award has been issued, Project Sponsors must submit the executed contract being utilized for project construction (“Construction Contract”) to the I-Bank for certification.

Post Concurrence of Award:

After the award concurrence by the Department and certification by the I-Bank, the Borrower shall arrange a Pre-Construction meeting. This meeting should be attended by representatives of the engineer’s office, the contractor, police, utility companies (when applicable), and others involved in the project, and may involve I-Bank personnel. Regardless of Transportation Bank staff participation, minutes of the meeting must be kept and sent to the Transportation Bank. Topics of discussion should include:

- Construction Schedule
- Construction Methods
- Utility Relocation and Maintenance
- Traffic Protection

**CERTIFICATION OF THE CONSTRUCTION CONTRACT IS BASED UPON:**

- 1) Concurrence of Award of the Department; and
- 2) The authorizing resolution of the Project Sponsor to enter into the contract.

- Construction Items
- Material Questionnaire (Form SA-11)
- Material Sampling Requirements
- Change Orders

## D. SHORT-TERM CONSTRUCTION FINANCING PROGRAM; LOAN CLOSING

### INTRODUCTION

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#### **Funding Commitment**

Each Project financed through the Transportation Bank will first receive a Short-Term Loan to finance the Project through construction, and then a Long-Term Loan to convert and restructure the Short-Term Loan. A commitment of funds for the total estimated Project cost occurs upon Short-Term Loan closing. Short-Term Loan closing occurs after (i) the Transportation Bank's Allocation of Funds; (ii) the Transportation Bank's certification of one or more contracts (i.e. the Engineering Design Contract, Construction Management Contract or Construction Contract); (iii) approval for financing from the Director of the Division of Local Government Services; and (iv) the Project Sponsor's satisfaction of all other conditions precedent to loan closing including satisfaction of the I-Bank's creditworthiness standards.

Pursuant to the Act, each Transportation Bank applicant is required to issue a note (with respect to the Short-Term Loan) or a bond (with respect to the Long-Term Loan) to the I-Bank in order to evidence and secure its repayment obligation. Pursuant to the I-Bank's Credit Policy, each Transportation Bank applicant is required to secure its note or bond with a general obligation tax pledge ("G.O. Pledge"). In addition, each applicant must be able to satisfy its repayment obligations and provide assurances of repayment of existing Transportation Bank obligations in the event of loan default. Such conditions are central to the Transportation Bank's ability to meet its fiduciary obligations in the management of public funds as well as to ensure loan repayments are available for future Transportation Projects.

The Transportation Bank expects to have a critical mass of Borrowers with projects at or near construction completion and sufficient for a long-term public bond offering ("Long-Term Bonds") in SFY2023. To the extent that any existing or future Short-Term Loans mature prior to the date upon which the I-Bank will issue long-term public debt, such Short-Term Loans may be rolled over, extended, or converted to a Direct Loan at the discretion of the I-Bank.

## SHORT-TERM LOANS

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Short-Term Loans may close as early as the Project design phase. These loans serve to finance eligible costs associated with engineering design, construction management, and construction. The maturity of a Short-Term Loan is limited to the periods set forth in N.J.S.A. 58:11B-9(g) (i.e., the sooner of the last day of the fifth succeeding fiscal year following the closing date of the Short-Term Loan or the last day of the third succeeding fiscal year following the date of construction certification following the closing date of the Short-Term Loan). Any Short-Term Loan made by the I-Bank may mature in a shorter period of time as necessary to align with construction completion or to address the funding needs of the Transportation Bank.

One supplemental Short-Term Loan is available to Projects which have been certified by DOT as requiring additional construction time beyond the Short-Term Loan maturity date (a “Residual Loan”). In these cases, the initial Short-Term Loan is converted to a Long-Term Loan and a Residual Loan to finance the remaining Project amount is available for the lesser of three additional fiscal years, or construction completion. The Residual Loan will be converted to long-term financing with a maturity term equal to the Project’s original Long-Term Loan. The terms of the Residual Loan will mirror the terms of the long-term financing consistent with the original terms of each specific construction component.

Construction draws for Project expenses will be made pursuant to requisitions submitted by Borrowers on certified contracts. All interest charges will be assessed on outstanding requisitioned amounts at a blended rate, which methodology will be established by the I-Bank Board, set monthly and posted on the I-Bank website. The basis for the methodology will consider the I-Bank’s cost of funds as well as the current market rate on BANS.

The Borrower is generally not obligated to repay principal or interest during the term of the Short-Term Loan. Interest charges are accrued and may be capitalized for the term of the loan for up to six months after construction completion. Short-Term Loans are generally termed out at the earlier of construction completion or maturity of the loan. Payments of principal, interest, and fees commence after Long-Term Loan closing.

- i. Assuming the Project Sponsor has the requisite approvals in place, Short-Term Loans are available within as little as three (3) weeks of receiving (i) I-Bank Project Certification, (ii) approval by the Director of Local Government Services, and (iii) satisfaction of the Transportation Bank’s creditworthiness standards defined in the Credit Policy. **I-Bank Project Certification**

For a project to receive Transportation Bank financing, the I-Bank must certify that each of a project's component contracts satisfy Transportation Bank eligibility requirements.

- ii. **Approval by the Director of Division of Local Government Services**

Transportation Bank loan applicants are not required to directly secure Local Finance Board approval of the applicants’ short-term debt instruments sold to the I-Bank to secure the applicant’s pledge of the repayment obligation pursuant to the Act (N.J.S.A. 58:11B-7). Instead, the Project

Sponsor may authorize the I-Bank to secure such approval upon the applicant's authorization set forth in the Financial Information Submission. The I-Bank will request such approval from the Director of the Division of Local Government Services on behalf of the Project Sponsor. The five percent (5%) down payment requirement is not required of I-Bank loan applicants provided the local bond ordinance exclusively funds a Transportation Bank Project. In addition, projects financed through the Transportation Bank do not need approval from the Local Finance Board to deviate from the established principal payment requirements as set forth in the Local Bond Law.

iii. **Creditworthiness Standards**

All Borrowers are required to satisfy the I-Bank's Credit Policy by demonstrating an ability to satisfy both the loan repayment obligations and the Transportation Bank's credit worthiness standards as set forth in the I-Bank's Credit Policy. Generally, all applicants are required to have no less than one investment grade rating from Fitch Ratings, Moody's Investors Service or Standard & Poor's Global Ratings as set forth in the I-Bank Credit Policy and no non-investment grade ratings. Applicants with a credit rating of less than Baa1 or BBB+ are required to procure an additional investment grade rating. The Credit Policy allows for limited exceptions to this requirement (e.g. the ability of a borrower to supply the I-Bank with a State Municipal Qualified Bond Act bond). In addition, each applicant is required to secure its note or bond to the benefit of the Transportation Bank with a G.O. Pledge which must be investment grade rated to secure its repayment obligations. The updated Credit Policy may be obtained on the I-Bank's website at: [https://cdn.njib.gov/njib/policies/Amended and Restated Credit Policy-202010.pdf](https://cdn.njib.gov/njib/policies/Amended_and_Restated_Credit_Policy-202010.pdf).

Upon satisfaction of (i)-(iii) above, the I-Bank will contact the applicant to schedule the Short-Term Loan closing. In connection with Short-Term Loan closing, the I-Bank will circulate each of the following documents: (i) the form of Note to be issued by the Borrower to the I-Bank, including a series of Exhibits for inclusion thereto that shall include but not be limited to, the following: (a) the project description; (b) the basis for the determination of allowable costs of the project; (c) the loan amounts available for draw; (d) the Project application schedule; (e) the general administrative requirements; (f) a form of certification regarding lobbying; and (g) a disclosure of lobbying activities form; and (ii) the form of opinion to be rendered by bond counsel and general counsel to the Borrower, including, without limitation, the enforceability of the Note being issued to the I-Bank. In addition to such forms to be completed and submitted by the Borrower at closing in the form required by the Transportation Bank, the Borrower must provide a certified copy of its official action relating to the authorization of its project and the issuance of the Note. The nature of the Short-Term Loan and its structure as a note purchase program results in an efficient economy of closing documents.

Upon Short-Term Loan closing, funds are committed for the entire estimated project cost but are only available for draw upon each specific contract certification. For Short-Term Loans issued upon the certification of engineering contracts, long-term financing terms are established based upon the terms available in the year of certification of each individual construction contract. If a project has multiple construction contracts, various financing year terms may apply to a single project loan, terms which are



set for the costs of each construction component at the time of each contract certification. Funds for construction are made available at the time of concurrence of the construction contract by the DOT and certification by the I-Bank. For Short-Term Loans issued after construction contract certification, long-term financing terms are established based on the terms available in the year that the Short-Term Loan is closed. For applicants that choose to finance engineering and construction costs on their own prior to long-term financing from the Transportation Bank (i.e. self-funders), long-term financing terms are set at the time of Long-Term Loan closing.

### **Compliance with Application Schedule**

Each Borrower is required to comply with its agreed upon Scheduled Award Date as set forth in the Funding Allocation Notice and, for Short-Term Loans closed based solely on an engineering contract, also in the Note (see “Application Process” above). A Borrower’s failure to receive concurrence of award on or before the Scheduled Award Date due to the inaction by it or its agents shall result in the de-obligation of funding for the Project. Moreover, no Short-Term Loan funds will be disbursed for non-certified contracts. Any previously disbursed funds related to the de-obligated Project must be immediately paid back to the I-Bank. Any non-disbursed funds for certified contracts will be unallocated and returned to the Transportation Bank’s general loan fund, and the Project’s readiness ranking will be reduced by 5 ranking points in future funding rounds.

### **ADDITIONAL SHORT-TERM FUNDING**

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Projects for which the Short-Term Loan amount is insufficient to complete construction may request additional loan amounts for eligible project costs. Project Sponsors shall submit the request for additional funds and supporting documentation through [NJ-Moves.com](https://www.nj-moves.com). Up to 50% of the funds available at the next quarterly allocation, at the discretion of the Executive Director, may be prioritized to fund eligible cost increases to Projects for which funds have already been allocated. Such additional funding is available to Projects up to 20% of total Project cost. Cost increases in excess of this threshold amount require DOT and I-Bank approval.

### **DISBURSEMENT OF FUNDS**

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Upon Short-Term Loan closing, Transportation Bank funds for eligible costs are disbursed by the I-Bank for a certified contract upon the review and approval of contractor invoices and requisitions. Funds are disbursed to Borrowers upon the Borrowers’ demonstration that project costs have been incurred. Borrowers are not required to either pay or demonstrate that they have paid such costs.

## **E. SFY2023 EMERGENCY AND RESILIENCY FINANCING PROGRAMS**

### **DISASTER RELIEF (SAIL) PROGRAM OVERVIEW**

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The Disaster Relief Emergency Loan Financing Program, also known as the Statewide Assistance Infrastructure Loan Program (“SAIL Program”), was enacted in August 2013, in recognition of the

challenges that local governments faced in securing funding for Sandy recovery projects from multiple federal and State sources. While initially established to fund and finance environmental infrastructure projects, recent legislation, P.L.2021, c.74, expands the purview of the SAIL Program to include the funding and financing of Transportation Projects, aviation projects, and marine projects.

The SAIL Program works in coordination with the existing Federal Highway Emergency Relief Program administered by the DOT Local Aid Program to provide local government units quick access to temporary, low-cost, short-term bridge loans in the aftermath of a declared disaster to repair damages incurred during the disaster and to improve transportation infrastructure. Projects funded through the SAIL Program must be identified on a project priority list which can be submitted to the legislature any time during the year prior to receipt of SAIL Program financing pursuant to N.J.S.A. 58:11B-9.5(c).

SAIL Program loans are available to local government units seeking short-term financing assistance to address immediate cash flow needs for their disaster-related transportation infrastructure projects whether the funds are to be used for local match requirement and/or anticipation of reimbursement through federal grant programs such as those provided by the Federal Highway Administration (FHWA) Emergency Relief (ER) Program administered through the DOT, the Federal Emergency Management Act (FEMA) or other United States Department of Transportation programs. For Local Government Units seeking to rebuild their transportation infrastructure after disasters, New Jersey's SAIL Program is designed to provide ready cash to alleviate the financial stress that may result from delays in the receipt of federal reimbursement and to finance those aspects of a project that may not be eligible for funding through federal grant programs, such as certain betterments. Importantly, SAIL Program participants also receive assistance with compliance oversight as many local communities are neither equipped nor experienced in dealing with federal FEMA or FHWA requirements. The I-Bank requires that any funds disbursed as part of the SAIL Program, which are reimbursed by a federal program, be immediately paid back by the recipient to the Transportation Bank. These funds are not long-term financed.

#### **Partnership with NJOEM and FEMA**

The I-Bank works closely with NJ Office of Emergency Management ("NJOEM"), FEMA, FHWA and the DOT Local Aid Office on behalf of Borrowers: to (i) help obtain reimbursement of eligible costs as quickly as possible while optimizing the amount recovered; and (ii) provide compliance oversight to mitigate the potential of funding rejection or future de-obligation. Given the necessity that project expenses meet federal requirements as a condition of reimbursement, and the need to have such applications approved expeditiously, the I-Bank, on behalf of the Transportation Bank, may retain an outside engineering consulting firm to assist in the review of construction design and eligible costs, conduct site visits and review disbursement requests. SAIL Program Borrowers are responsible for payment of the review costs of the consulting engineer, incurred on a borrower's behalf, the terms of which are set by the Board in a future SAIL Program Authorization Resolution. Depending on the size of the project, engineering review costs for emergency projects would be generally equivalent to the Transportation Bank's 2% Loan Origination Fee and incorporated into the Borrower's long-term financing package.

SAIL Program Short-Term Loans issued in SFY2023 will be at an effective interest rate set by the Board and based on the I-Bank's cost for short-term funds. SAIL Program Short-Term Loans may be issued for the same maturity terms as are available to Transportation Bank Short-Term Loans.

SAIL Program financing will be available in SFY2023 for short-term financing for projects to repair or improve the resiliency of transportation infrastructure systems adversely impacted by any newly declared disaster. SFY2023 SAIL Program loan interest rates are structured identically to that of Short-Term Loans as discussed above.

**SAIL PROGRAM PROJECT FUNDING IS AVAILABLE\* TO LOCAL GOVERNMENT UNITS UPON THE DETERMINATION AND CERTIFICATION IN WRITING BY THE DOT COMMISSIONER THAT EACH PROJECT:**

1. Is necessary and appropriate to repair damages to a transportation, marine or aviation facility directly arising from an act of terrorism, seismic activity, weather conditions or other emergency event which occurred within the three fiscal years that gave rise to a declaration by the Governor of a state of emergency; or
2. Is necessary and appropriate to mitigate the risk of future damage to a transportation, marine or aviation facility from an act of terrorism, seismic activity, weather conditions or other emergency event comparable in scope and severity to the act of terrorism, seismic activity, weather conditions or other emergency event that gave rise to a declaration by the Governor of a state of emergency which occurred within three fiscal years of the project being identified on the Project Priority List;
3. Is related to a transportation, marine or aviation facility located in a County included in the Governor's state of emergency declaration;
4. Has an applicant that has satisfied the Transportation Bank's eligibility requirements of the funding sources for which reimbursements are sought (e.g., FHWA ER, FEMA, USDOT and/or the NJEIFP); and
5. Has an applicant that has secured all SAIL Program application and financial approvals\*.

*\* Funds are not yet appropriated for Aviation or Marine Projects.*

## LOAN FUNDING SOURCES

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The sources of funding for the SAIL Program are the same as those available under the Short-Term Loan program. For both the Short-Term Loan Program and SAIL Program, the I-Bank may procure private capital or utilize the I-Bank's transportation operating revenues to secure additional funds, as necessary.

## F. FEDERAL GRANT RESILIENCE PROGRAMS (BRIC AND STORM)

Based on the success of the SAIL Program under the Water Bank, the I-Bank is taking steps to enhance its ability to serve the disaster needs of the State by further leveraging federal emergency funding. For example, in coordination with NJOEM, the I-Bank has received a grant through FEMA's Building Resilient Infrastructure and Communities (BRIC) Program, a federal competitive grant program designed to support states and local communities that undertake hazard mitigation projects. BRIC is a relatively new FEMA pre-disaster hazard mitigation program that shifts the focus from financing post-disaster clean up and rebuild to investing in infrastructure to mitigate the damage that could result from a disaster.

In partnership with the NJOEM-Recovery Bureau, the I-Bank is creating an application process that compiles applicant and project data for prioritizing, selecting, and developing complete BRIC applications. The expected result would be an improvement in the state's capability to identify suitable mitigation projects and to develop a steady queue of application-ready mitigation projects for submission of BRIC grants.

The I-Bank will also provide construction financing for grant recipients by reimbursing for construction expenses in advance of the receipt of approved BRIC funds. As with the I-Bank's successful SAIL Program, the I-Bank will act as the construction progress monitor, ensuring the completion of projects in a timely manner and in accordance with all applicable rules and regulations. Any qualified amounts not reimbursed by the federal grant program (local non-federal cost share responsibility and amounts not reimbursable by BRIC) will be long-term financed by the I-Bank through its respective Water Bank or Transportation Bank, thus satisfying the non-federal cost share requirements (typically 25%) of the BRIC program.

Similarly, the I-Bank is working with NJOEM to provide financing services pursuant to the federal STORM Act funds. The Safeguarding Tomorrow through Ongoing Mitigation (STORM) Act authorizes the Federal Emergency Management Agency (FEMA) to enter into agreements with states or Native American tribal governments to make capitalization grants available for the establishment of hazard mitigation revolving loan funds to reduce risks from disasters and natural hazards. The I-Bank anticipates working with NJOEM to develop a revolving hazard mitigation infrastructure fund similar to the current revolving Water Bank and Transportation Bank that would supplement projects in the Water Bank and Transportation Bank.

## G. OTHER EMERGENCY APPROPRIATIONS

The I-Bank may access federal emergency or relief funds that are appropriated to the State subsequent to a federal or State declaration of emergency. These funds may be used to make loans or grants in the implementation of the Transportation Bank to local government units included on the PPL which may be updated up to four times throughout the year.

## H. LONG-TERM FINANCING

In anticipation of construction completion, a Project listed on the PPL will be designated eligible for long-term financing and placed on the Project Eligibility List (“PEL”) (set forth in Appendix A). To be eligible for Long-Term Loan closing, Projects must be identified in an appropriations law passed by the Legislature and signed by the Governor, and receive certification from the State Treasurer and the I-Bank Board.

### THE I-BANK LONG-TERM BONDS

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Upon completion of construction, or such earlier time as determined by the I-Bank, a Long-Term Loan will be closed to refinance a Project’s Short-Term Loan. In some instances, the I-Bank may directly finance a project with a Long-Term Loan and in other instances Long-Term Loans may be issued in conjunction with the issuance of bonds. Long-Term Loans have a maximum term equal to the lesser of the Project’s certified useful life (based on a certification provided to the Transportation Bank by the Borrower’s consulting engineer) or the period set forth in N.J.S.A. 58:11B-6(d) (currently 31 years). The Transportation Bank reserves the right to set a shorter maturity term based upon State or national projections of the impact of climate change on any project, such as rising sea level.

Long-Term financing for the first \$100 million of project costs is offered at a blended interest rate of approximately 50 percent of the I-Bank’s all-in market rate for Projects with maturities of greater than 10 years up to 31 years and 25 percent of the I-Bank’s all-in market rate for Projects with maturities of 10-years or less. Loan terms are established based upon the terms in effect at the time of project certification or loan closing. Project costs over \$100 million will be 100% financed at the I-Bank’s all-in market rate, as capacity allows.

Projects may receive a Long-Term Loan financed 100% with I-Bank cash on hand (“Direct Loans”) or I-Bank bonds may be used for a portion of the funding. The I-Bank has adopted a Master Transportation Bank Indenture pursuant to which supplemental indentures may be authorized to issue Long-Term Bonds. Direct Loans will be included in the Master Transportation Bank Indenture in advance of a bond issuance. The I-Bank is considering issuing Long-Term Bonds in SFY2024.

The following are the currently anticipated general parameters of the I-Bank’s Long-Term Bonds with the purpose to refinance multiple Short-Term Loans.

- Each series of Long-Term Bonds will fund a pool of Long-Term Loans. Bond proceeds will refinance the Short-Term Loans of pool participants or in some cases directly finance a project. Each participant will be assigned to a loan pool by the I-Bank based on factors such as the Project’s status of construction completion, the Borrower’s individual credit characteristics, the Borrower’s effect on the pool’s coverage, and the terms and conditions of each Borrower’s own outstanding bond documents.
- Each series of Long-Term Bonds will be special obligations of the I-Bank, secured primarily by the repayment by each pool participant of its Long-Term Loan pursuant to the terms of a Long-Term Loan agreement by and between the I-Bank and each such participant. Each such Borrower’s loan

repayments will be collateralized by a guarantee sold to the I-Bank in the form of a bond to secure such Borrower's obligation to make loan repayments on time and in full. All Borrowers are required to issue bonds to the I-Bank, backed by the Borrowers' General Obligation pledge.

- Pursuant to the Credit Policy, for Borrowers with lower credit ratings, additional security for the Long-Term Bonds may be provided through the Municipal Qualified Bond Act or through a debt service reserve fund.
- The Long-Term Loan agreement and the local unit bond or other approved collateral of the Borrower are, except for certain reserved rights, assigned by the I-Bank to the Trustee for the Long-Term Bonds as security for the Long-Term Bonds.
- Neither the State nor any political subdivision thereof (other than the I-Bank, but solely to the extent of the applicable I-Bank transportation trust estate) is obligated to pay the principal of or interest on the Long-Term Bonds, and neither the full faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of or interest on the Long-Term Bonds. The I-Bank has no taxing power.
- The I-Bank will structure its Long-Term Bond financings to optimize the cost of financing for Transportation Bank Borrowers relative to the amount of funds the Transportation Bank makes available for loans.
- The I-Bank will consider various alternative and/or additional structural features and sources of funds with respect to its Long-Term Bonds to be issued in SFY2023 and thereafter, to the extent such structural features and sources of funds will serve the best interests of the Transportation Bank, optimize funds for the Program, and/or will provide additional savings for the Borrowers.

## FEDERAL FUNDING

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The Transportation Bank is assessing the viability of utilizing federal TIFIA loan funds as an additional source of funds for project financing. The final maturity date of a loan financed in part with TIFIA funds shall not exceed the maximum time allowed under the TIFIA program, currently 35 years, from the date the TIFIA loan is obligated. The I-Bank anticipates utilizing a portion of its available appropriated TTF funds as the match requirement for a TIFIA loan which, depending on the Borrowers in the pool, ranges between 20% to 51% of the total project costs. The Department shall have no obligation to provide additional funds and TIFIA borrowing by the I-Bank will not impact DOT's annual federal funding allocations.

For Transportation Projects which receive financing from the I-Bank sourced in part from TIFIA funds, financing shall be provided with a combination of up to 80% financing from TIFIA at the TIFIA cost of funds (generally, 50% of the U.S. Treasury interest rate for rural projects as defined by FHWA) and the balance provided by the I-Bank at approximately 50% of the I-Bank's all-in market rate.

## CLOSING

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Loans will be closed for each Borrower provided such Borrower has adopted all necessary ordinances and resolutions and procured all required authorizations relating to its participation. Depending upon the timing of the issuance of Long-Term Bonds, loan agreements may be closed in escrow and held along with the Borrower bonds and related certifications until after bond sale and until all conditions precedent to final closing have been met. At that time, the documents are released from escrow concurrently with closing. This process ensures, to the greatest extent possible, that all Borrower conditions precedent to closing are satisfied prior to a competitive bond sale and that closing proceeds without incident. Escrow is estimated to commence four to eight weeks prior to each bond sale closing, thereby minimizing any potential disruption at the time of bond closing.

## SALE OF LONG-TERM BONDS

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The Act allows the I-Bank's Long-Term Bonds to be sold via a competitive or negotiated sale. If the bonds are competitively sold, the I-Bank must publish a summary of the "Notice of Sale" in at least three New Jersey newspapers and in a recognized bond publication. If sold competitively, the Long-Term Bonds will be awarded on the basis of the lowest true interest cost bid.

## BORROWER DISCLOSURE IN CONNECTION WITH THE MARKETING AND SALE OF I-BANK BONDS

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Borrowers' closing Long-Term Loans (regardless of funding sources) are required to provide, through completion of a Long-Term Financial Addendum Form and certification of the accuracy of the data therein, information necessary for disclosure in the I-Bank's Official Statement to be disseminated in connection with the sale and issuance of its Long-Term Bonds. Full disclosure is required for all participants determined by the I-Bank to be "material obligated persons" (defined as any Borrower whose debt service repayments exceed 10% of the aggregate debt service repayments for publicly issued bonds relative to the aggregate debt service from all Borrowers included in this Transportation Bank Indenture). A reduced disclosure is required by the I-Bank from those Borrowers that do not meet the standard for "material obligated persons."

## SECONDARY MARKET DISCLOSURE

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Securities and Exchange Commission ("SEC") Rule 15c2-12 requires that certain information be provided on an annual basis, following the issuance of bonds, for use in the secondary market. The I-Bank has developed a policy, in satisfaction of the requirements of SEC Rule 15c2-12, to: (i) provide ongoing secondary market disclosure with respect to each series of bonds issued by the Transportation Bank ; (ii) ensure the provision of ongoing secondary market disclosure by certain Borrowers (i.e., those Borrowers that are determined by the I-Bank to be "material obligated persons" with respect to all outstanding series of I-Bank issued Long-Term Bonds; and (iii) ensure the disclosure of certain "Listed Events" in a timely fashion not in excess of ten business days from the occurrence thereof.

## STATE-AID INTERCEPT

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The Act authorizes the State Treasurer to intercept State aid to eligible local government units that fail to meet their debt obligations to the I-Bank and to utilize those State aid funds to satisfy the local government unit's debt obligations to the I-Bank.

The I-Bank will employ its State aid intercept powers to intercept funds of any Borrower that has defaulted on its I-Bank obligation. Intercepted funds will be applied to make up any repayment deficiencies to the I-Bank. Further, the I-Bank may take other actions to cause the local government unit to repay in a timely manner any sums in default.

## COVENANTS AFFECTING THE LOCAL UNIT

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The Transportation Bank Long-Term Loan agreements and the Long-Term Bonds and other collateral securing such loan agreements must be legally valid and binding obligations of the Borrower or Local Government Unit.

Consequently, each Borrower must be able to make unequivocal representations concerning its status. Ordinances and resolutions of the governing body must be in place to establish that the Borrower has either the legal right and authority to undertake the Project, and own, operate and appropriately maintain the Project, or the legal right and authority to borrow funds on behalf of a duly-constituted regional transportation authority, commission, or similar organization (a "Transportation Authority"), for a Project that will be owned, operated, and/or maintained by such Transportation Authority. The Borrower will need to certify that no undisclosed fact or event, and no pending litigation, will materially adversely affect the Borrower, the Project, or the ability to make timely loan repayments. In the case of a Borrower borrowing on behalf of a Transportation Authority, the I-Bank may require that the Transportation Authority provide certain certifications as well.

Other covenants include:

- A pledge of borrower's full faith and credit to exercise the unlimited *ad valorem* taxing power of the local government unit to insure the timely payment of principal, interest, and fees;
- The intercept of State aid payable to a G.O. Borrower who fails to meet I-Bank Loan repayment and/or administrative fee payment schedules;
- A limitation on the Borrower's discretion to issue Qualified Bonds unless the coverage afforded by State aid anticipated for the current fiscal year is equal to a reasonable coverage test, which test in the past has required that the annual debt service on all outstanding Qualified Bonds divided by the annual funds available for debt service payments pursuant to the Qualified Bond Act that does not exceed 0.80;
- A limitation on the use of loan proceeds to only finance allowable costs of the project funded by the Long-Term Loan;



- A limitation on the Borrower's right to sell, lease, abandon or otherwise dispose of the infrastructure without (i) an effective assignment of the Borrower's loan obligations, (ii) the prior written approval of the I-Bank, and (iii) an opinion from the I-Bank's bond counsel that such sale, lease, etc. will not have an adverse impact on either the security for the I-Bank's bonds or the tax-exempt status (if applicable) of the I-Bank's bonds;
- A prohibition on actions that may jeopardize the tax status of the bonds issued by the I-Bank (if applicable); and
- A provision to provide secondary market disclosure information in accordance with the provisions of SEC Rule 15c2-12 and the policy established by the I-Bank, if required under the Rule.

The I-Bank may impose additional covenants on certain Borrowers to address unique circumstances.

## TERMS OF REPAYMENT

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Interest begins accruing on the I-Bank's Long-Term Loan at the time of loan closing.

Other repayment terms include:

- A level annual repayment schedule for the Long-Term Loan, with interest and principal payable in semi-annual installments;
- The remaining balance of the 2% project loan origination fee (1%) shall be paid at the time of the first Long-Term Loan repayment;
- The I-Bank's annual administrative fee at the rate of 0.15% of the original principal amount of the Long-Term Loan shall be paid semiannually for the term of the loan commencing with the first Long-Term Loan repayment;
- A late charge of 12% per annum, or 0.50% above the prime rate, whichever is greater, of the outstanding loan balance calculated from the due date; and
- The application of each I-Bank loan repayment pursuant to the terms set forth in the Transportation Bank Master Indenture of Trust.

The loan agreements may also provide Borrowers with an option to prepay loan obligations without penalty. Prepayment of the I-Bank Loan requires a 90-day written notice to the I-Bank and a written response from the I-Bank for approval thereof. I-Bank Loan prepayments, at a minimum, must satisfy the payment in full of accrued interest (if applicable), any premium, and principal through the prospective payment date for which the prepayment is to be credited and any fees incurred by the Transportation Bank to execute such prepayment. Since the loans may combine funds raised from bond proceeds with I-Bank appropriated funds for the financing of a project's eligible costs, the prepayment of any I-Bank Loan will be applied pro-rata to each corresponding portion of the loan. In addition, whether or not prepayment is

involved, any modification of the local government bonds securing the I-Bank Loan will require prior, written approval of the I-Bank.

## DEFAULT

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The Long-Term Loan agreements will define an Event of Default as any one of the following:

1. the failure by the Borrower to make a loan repayment in full on or before the due date;
2. the failure to make timely payment of an administrative fee within 30 days after written notice is given;
3. the representation of false and misleading information that has a material effect on the integrity of the loan agreements or related documents;
4. the filing by or against a Borrower of any petition of bankruptcy or insolvency;
5. the general failure of the Borrower to pay its debts; and
6. the failure to observe or perform any other duties, obligations or responsibilities required for participation in the Transportation Bank, within 30 days after written notice.

With respect to the Events of Default specified in (2) and (6), the Trustee may be authorized to provide relief for up to 120 days if the Borrower can represent that the failure to pay, observe or perform is correctable within that time frame. In addition, default may be averted if a petition of bankruptcy or insolvency is dismissed without prospects for appeal.

In an event of payment default, the I-Bank may accelerate the Long-Term Loan, and in the event of any default, the I-Bank may elect to take whatever action at law or in equity it deems necessary or direct the Trustee to pursue these remedies.

## I. FEES

### **Loan Origination Fee (Administrative Loan Surcharge)**

A Loan Origination Fee in the amount of 2% of the total estimated eligible Project cost is charged to all Borrowers. This non-refundable Loan Origination Fee offsets the cost of engineering and environmental services and requisition review, fund disbursement and site inspection services, legal fees, credit review and modeling, document processing and administrative expenses provided by the Transportation Bank for the Borrower in connection with, and as a condition precedent to, the inclusion of the project in the Transportation Bank Program. The total Loan Origination Fee is two percent (2%) of the final project cost and is trued-up at long-term financing. One-half of the Loan Origination Fee (1% of the total estimated eligible Project cost) is due by the Project Sponsor upon Short-Term Loan closing and will be financed through the Short-Term Loan. This fee will be drawn on the date of closing of the Short-Term Loan and transferred to the I-Bank in satisfaction of this partial fee payment obligation. The remaining 1% Loan Origination Fee balance is due and payable by the Project Sponsor upon Short-Term Loan conversion, as a component of the Borrower's first Long-Term Loan repayment.

**Cost of Issuance Fee**

A fee equal to 0.10% on 50% of the total original principal amount of the Long-Term Loan is applied to all Borrowers for Cost of Issuance.

**Administrative Fee (Loan Servicing Fee)**

A separate loan servicing fee is payable semi-annually to the I-Bank in the amount of 0.15% of the total original principal amount of the Long-Term Loan throughout the loan repayment period by all Borrowers to offset the I-Bank's ongoing loan servicing efforts.

**Event of Default Fees and Expenses**

The Borrower is charged reasonable fees, including attorney fees, and other expenses incurred in the collection of repayments or any other sum due or the enforcement of the performance of any duties, covenants, obligations, or agreements of the Borrower under the Note. The hourly cost of professional services is set forth in agreements between the I-Bank and its professional advisors.

**Engineering Costs**

To the extent that consulting engineers are used by the Transportation Bank for application review or construction management for a Borrower's Project, the costs thereof may be charged to the Borrower. The Borrower's Loan Origination Fee discussed previously will be reduced in accordance to offset any such charge. The hourly cost of such services will be set forth in agreements between the I-Bank and its consulting engineers and the costs shared with Borrowers.



Atlantic County – Route 629 Pedestrian & Traffic Signal Improvement Project

### III. PINELANDS PROJECT FINANCING

Established by the Pinelands Infrastructure Trust Bond Act of 1985, L.1985, c.302, the Pinelands Infrastructure Trust Fund provides a source of funds specifically for infrastructure projects needed to accommodate existing and future needs in the 23 designated Pinelands Regional Growth Areas. Pinelands projects are approved by the Commissioner of the New Jersey Department of Environmental Protection (“DEP”) only after a finding has been made by the Pinelands Commission that the master plan and zoning ordinance of the municipality, and master plan of the county, where the project is to occur conforms to the Pinelands Infrastructure Master Plan and the provisions of the comprehensive management plan.

Pinelands infrastructure projects are prioritized pursuant to the Pinelands Project Priority Methodology and placed on the Pinelands Project Priority List. The Pinelands Infrastructure Master Plan provides all ranking and prioritization guidelines for Pinelands infrastructure projects. The Pinelands Project Priority List is developed in conformance with the Pinelands Infrastructure Master Plan. The Pinelands Infrastructure Master Plan was amended in February 2019 to include one transportation infrastructure project. The Pinelands Commission has requested that the project be financed through the Transportation

Bank using the funds sourced from the Pinelands Infrastructure Trust Fund. The Transportation Bank has included Pinelands Projects on its Project Priority List based on the methodology and ranking of the Pinelands Commission.

Pinelands/I-Bank financing for the Pinelands transportation infrastructure project(s) will be structured in accordance with the Pinelands Commission Master Plan:

- Pinelands infrastructure transportation projects are funded by the I-Bank with monies appropriated to the I-Bank from the Pinelands Infrastructure Trust Fund;
- Up to 40% of allowable project costs will be in the form of a grant;
- Up to 50% of allowable project costs will be in the form of a loan at an interest rate of 1.00%;
- The remaining 10% of any Pinelands transportation infrastructure project shall be funded through local match (“Match”). A Project Sponsor may either self-finance the Match or apply for an I-Bank loan to finance the Match requirement as long as the project qualifies for Transportation Bank funds pursuant to the Transportation Bank Project Priority List. The interest rate of such an I-Bank loan would be at a rate commensurate with the I-Bank’s Transportation Bank. In the event a participant elects to fund the Match with an I-Bank loan, the Project Sponsor is subject to the terms and conditions of the applicable Transportation Bank Short-Term Loan Program; and
- A participant may issue their own bonds to finance the unallowable costs of the project and allowable costs which exceed the I-Bank/Pinelands amounts or participants may finance these costs from other funds. Each participant must be capable of financing these costs in order to be eligible for financing from the Transportation Bank.

#### IV. FUNDS APPROPRIATED IN SFY2023

To the extent that additional funds are appropriated to the I-Bank to finance transportation infrastructure projects in SFY2023, the I-Bank shall finance projects in accordance with the terms and conditions of the source of funds and Board approval. In the event funds are appropriated to the I-Bank for financing the transportation infrastructure component of redevelopment projects, the I-Bank may issue grants, loans and provide other financial assistance including the establishment of a debt service reserve fund, and establish financing terms in accordance with, and in furtherance of, the purposes of the appropriation.

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## V. APPENDICES

SFY2023 Project Eligibility List .....	A
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# **APPENDIX A**

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### SFY2023 Project Eligibility List

Priority List Rank	Applicant	Project No.	Estimated State Funded Amount	Estimated Total Loan Amount	Project Description
1	Bayonne City	TB0901-001	\$ 1,460,615	\$ 2,921,230	E. 25th Street Pedestrian Bridge Replacement
2	Burlington County	TB0300-001	\$ 1,662,500	\$ 3,325,000	Bridge C4.4 – Centerton Road Bridge Demolition
3	Cape May County	TB0500-007	\$ 5,050,000	\$ 10,100,000	Avalon Boulevard (C.R. 601) over Ingrams Thoroughfare deck rehabilitation
4	Essex County	TB0700-003	\$ 1,125,000	\$ 2,250,000	Replacement of New Dutch Lane Bridge over Deepavaal Brook (Str. No. 0701-465), Fairfield, NJ
5	Wildwood City	TB0514-001	\$ 5,227,500	\$ 10,455,000	City of Wildwood Capital Improvements Plan
6	Camden County	TB0400-001	\$ 1,250,000	\$ 2,500,000	Westfield Avenue, CR 610
7	Orange City	TB0717-001	\$ 4,955,000	\$ 9,910,000	City of Orange Various Street Paving Project
8	Little Silver Borough	TB1325-002	\$ 1,195,500	\$ 2,391,000	Sidewalk Project Phase II
9	Atlantic County	TB0100-001	\$ 5,807,500	\$ 11,615,000	Atlantic Co. Rte. 629 Pedestrian & Traffic Signal Improvement Project
10	Hackensack City	TB0223-001	\$ 1,960,890	\$ 3,921,780	Streetscape and Two Way Conversion of Main Street
11	Little Silver Borough	TB1325-001	\$ 229,500	\$ 459,000	Branch Avenue Sidewalks
12	Somerdale Borough	TB0431-002	\$ 526,775	\$ 1,053,550	Reconstruction of Gloucester and Ava Avenue
13	Somerdale Borough	TB0431-001	\$ 500,000	\$ 1,000,000	Reconstruction of Evergreen Avenue-Phases 2&3
14	Raritan Township	TB1021-001	\$ 1,411,475	\$ 2,822,950	Road Resurfacing Project 2020-2021
17	Flemington Borough	TB1009-001	\$ 835,775	\$ 1,671,550	Corcoran South Main Dewey Road Improvements
21	Raritan Township	TB1021-004	\$ 188,775	\$ 377,550	Case Blvd Reconstruction
23	Bayonne City	TB0901-002	\$ 814,452	\$ 1,628,903	2021 Roadway Improvements
24	Flemington Borough	TB1009-002	\$ 761,288	\$ 1,522,575	Bloomfield Ave and Academy Street Road Improvement
25	Raritan Township	TB1021-002	\$ 1,316,535	\$ 2,633,070	Road Resurfacing Project 2022
	<b>Total Projects: 19</b>		<b>\$ 36,279,079</b>	<b>\$ 72,558,158</b>	

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# **APPENDIX B**

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# Budget Place Holder

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**NEW JERSEY INFRASTRUCTURE BANK**

**Address:** 3131 Princeton Pike, Building 4, Suite 216, Lawrenceville, NJ 08648

**Phone:** (609) 219-8600 – **Fax:** (609) 219-8620

**Web Site:** <https://www.njib.gov/njtib>

**Facebook:** <https://www.facebook.com/njtransportationbank>

**LinkedIn:** <https://www.linkedin.com/company/nj-infrastructure-bank>



## RESOLUTION NO. 22 - 30

### **RESOLUTION OF THE NEW JERSEY INFRASTRUCTURE BANK (I) AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER INDENTURE OF TRUST WITH RESPECT TO THE TRANSPORTATION INFRASTRUCTURE FINANCING PROGRAM; AND (II) DIRECTING ANY AUTHORIZED OFFICER OF THE NEW JERSEY INFRASTRUCTURE BANK TO TAKE CERTAIN ACTIONS IN ACCORDANCE THEREWITH**

**WHEREAS**, in furtherance of the “New Jersey Transportation Infrastructure Financing Program” of the I-Bank (the “Financing Program”) and pursuant to and in accordance with (i) the “New Jersey Infrastructure Trust Act”, constituting Chapter 334 of the Pamphlet Laws of 1985 of the State of New Jersey (the “State”) (codified at N.J.S.A. 58:11B-1 et seq.), as the same has been, and in the future may be, further amended and supplemented from time to time (the “Act”), (ii) this Resolution, and (iii) a financial plan (the “Financial Plan”) developed pursuant to and in accordance with Section 22.3 of the Act, duly approved by the Legislature of the State, the I-Bank may issue its revenue bonds, from time to time, for the purpose of making loans to qualifying Local Government Units, as such term is defined in the Act, authorized to construct, operate and maintain Transportation Projects (as hereinafter defined) (each a “Borrower” and, collectively, “Borrowers”) from the proceeds of such revenue bonds in order to finance or refinance a portion of the allowable costs of the acquisition, construction, improvement, repair or reconstruction of all or part of any structure, facility, or equipment, or real or personal property necessary for or ancillary to, one or more “transportation projects”, as such term is defined in the Act, (each a “Transportation Project” and, collectively, “Transportation Projects”); and

**WHEREAS**, pursuant to and in accordance with Section 6(c) of the Act, the I-Bank is authorized to enter into a trust indenture that, inter alia, shall provide for the issuance of revenue bonds (“Bonds”) and for their payment and security; and

**WHEREAS**, the I-Bank, by virtue of the Act, is authorized and empowered, among other things, (a) to lend money to the Borrowers through the purchase by the I-Bank of bonds issued by such Borrowers (“Borrower Bonds”) to secure the loan(s) of such Borrowers to finance or refinance the costs of Transportation Projects; and (b) to borrow money and issue and refund Bonds from time to time pursuant to a master indenture (the “Master Indenture”), as amended and supplemented by supplemental indentures (each a “Supplemental Indenture”; the Master Indenture, as so amended and supplemented from time to time, is hereinafter referred to as the “Indenture”) for such purpose, payable from the revenues derived from such Borrower Bonds and as otherwise provided for in the Indenture; and to secure said Bonds by a pledge of said revenues; and

**WHEREAS**, the I-Bank is also authorized under the Act to enter into any contracts and to execute all instruments necessary or convenient for the exercise of its corporate powers and the fulfillment of its corporate purposes; and

**WHEREAS**, it is the desire of the Board, in furtherance of the foregoing, that the Chairperson of the I-Bank, the Vice-Chairperson of the I-Bank, the Secretary of the I-Bank, and the Executive Director of the I-Bank, or any other person or persons designated by the Board by resolution to act on behalf of the I-Bank, but in each case subject to the limitations of the by-laws of the I-Bank (each, an “Authorized Officer”), are each hereby severally authorized and directed to act on behalf of the I-Bank and to (i) execute and deliver the Master Indenture and (ii) take such other actions in connection therewith as shall be necessary or appropriate in furtherance of the intent and purposes of this Resolution.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the New Jersey Infrastructure Bank, as follows:

**Section 1. Recitals.** The recitals of this Resolution are incorporated herein by reference as if set forth at length herein.

**Section 2. Master Indenture.** (i) In furtherance of the Financing Program and (ii) in satisfaction of the terms and provisions of, and subject to the conditions precedent set forth in, (a) the Act, (b) the Financial Plan and (c) this Resolution, the Board hereby approves the execution and delivery of the Master Indenture, by and between the I-Bank and Zions Bancorporation, National Association d/b/a Zions Bank, as Trustee thereunder (the "Trustee"), in substantially the form attached hereto as Exhibit A and made a part hereof, with such revisions and modifications thereto as shall be approved by an Authorized Officer after consultation with Bond Counsel to the I-Bank and the Office of the Attorney General of the State, such approval to be evidenced by the execution thereof by such Authorized Officer.

**Section 3. Delivery of the Master Indenture and the Additional Documents.** The Board hereby authorizes and directs (i) any Authorized Officer to approve, execute and deliver each of the following, and (ii) the Secretary and the Assistant Secretary of the I-Bank, where required, to affix the corporate seal of the I-Bank, and to attest to the signature of the Authorized Officer, on each of the following:

- (a) the Master Indenture, in substantially the form attached hereto as Exhibit A; and
- (b) any other documents, certificates and/or instruments (collectively, the "Additional Documents") as may be determined by an Authorized Officer to be necessary, convenient or desirable in order to implement the provisions of (1) this Resolution and/or (2) the Master Indenture, so as to affect the transactions contemplated hereby and thereby.

The execution of the Master Indenture and the Additional Documents, if any, by an Authorized Officer shall be deemed to be conclusive evidence of approval by such Authorized Officer of such document.

**Section 4. Further Action.** The Board hereby authorizes any Authorized Officer, after consultation with Bond Counsel to the I-Bank and the Office of the Attorney General of the State, to take such other actions, to execute such other documents and instruments, and to seek such other consents as may be necessary or desirable (and not inconsistent with the terms and provisions of the Act, the Financial Plan and this Resolution) in order to effect the execution and delivery of the Master Indenture and to further the intent and purposes of this Resolution.

**Section 5. Effective Date.** This Resolution shall become effective in accordance with the terms of Section 4(i) of the Act (N.J.S.A. 58:11B-4(i)).

Adopted Date: May 12, 2022

Motion Made By: Mr. Mark Longo

Motion Seconded By: Mr. Jack Kocsis

Ayes: 8

Nays: 0

Abstentions: 0

**EXHIBIT A**

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MASTER INDENTURE OF TRUST

between

NEW JERSEY INFRASTRUCTURE BANK

and

ZIONS BANCORPORATION, NATIONAL ASSOCIATION d/b/a ZIONS BANK, as Trustee

for the

TRANSPORTATION PROGRAM

Dated as of May 12, 2022

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## MASTER INDENTURE OF TRUST

THIS **MASTER INDENTURE OF TRUST** (this “Master Indenture”), dated \_\_\_\_\_, 2022, by and between the **NEW JERSEY INFRASTRUCTURE BANK**, a public body corporate and politic constituting an instrumentality of the State of New Jersey with corporate succession (the “I-Bank”), and **ZIONS BANCORPORATION, NATIONAL ASSOCIATION d/b/a ZIONS BANK**, a national banking association, duly organized, validly existing and authorized to accept and execute trusts of the character herein set out under and by virtue of the laws of the State of New Jersey, as trustee (together with any successor trustee hereunder and their respective successors and assigns, the “Trustee”),

WITNESSETH THAT:

**WHEREAS**, in furtherance of the “New Jersey Transportation Infrastructure Financing Program” of the I-Bank (the “Financing Program”) and pursuant to and in accordance with (i) the “New Jersey Infrastructure Trust Act”, constituting Chapter 334 of the Pamphlet Laws of 1985 of the State of New Jersey (the “State”) (codified at N.J.S.A. 58:11B-1 *et seq.*), as the same may be amended and supplemented from time to time (the “Act”), (ii) a resolution authorizing the execution and delivery of this Master Indenture, duly adopted by the Board of Directors of the I-Bank, and (iii) a financial plan (the “Financial Plan”) developed pursuant to and in accordance with Section 22.3 of the Act, and approved by a concurrent resolution duly adopted by the Legislature of the State, the I-Bank may issue its revenue bonds, from time to time, for the purpose of making Loans (hereinafter defined) to qualifying Borrowers (hereinafter defined) from the proceeds of such revenue bonds in order to finance or refinance a portion of the allowable costs of the acquisition, construction, improvement, repair or reconstruction of all or part of any structure, facility, or equipment, or real or personal property necessary for or ancillary to, any such Borrower’s Project (hereinafter defined); and

**WHEREAS**, pursuant to the Act, the I-Bank has established the Financing Program for the purpose of providing financial assistance to Borrowers for Costs (hereinafter defined) of Transportation Projects (hereinafter defined); and

**WHEREAS**, pursuant to and in accordance with Section 6(c) of the Act, the I-Bank is authorized to enter into a trust indenture that, *inter alia*, shall provide for the issuance of revenue bonds and for their payment and security; and

**WHEREAS**, the I-Bank, by virtue of the Act, is authorized and empowered, among other things, (a) to lend money to the Borrowers through the purchase by the I-Bank of Borrower Bonds (hereinafter defined) of such Borrowers to finance or refinance the Costs of Transportation Projects; and (b) to borrow money and issue and refund Bonds (hereinafter defined) from time to time pursuant to this Master Indenture, as amended and supplemented by Supplemental Indentures (hereinafter defined) hereto (the Master Indenture, as so amended and supplemented from time to time in accordance with the terms and provisions of this Master Indenture, is hereinafter referred to as the “Indenture”) for such purpose, payable from the revenues derived from such Borrower

Bonds and as otherwise provided for in the Indenture; and to secure said Bonds by a pledge of said revenues; and

**WHEREAS**, the I-Bank is also authorized under the Act to enter into any contracts and to execute all instruments necessary or convenient for the exercise of its corporate powers and the fulfillment of its corporate purposes; and

**WHEREAS**, pursuant to the Act, the I-Bank shall submit to the State Legislature a Financial Plan which is designed to implement the long-term financing of the Transportation Projects included on the Transportation Financing Program Project Eligibility List (the “Project Eligibility List”); and

**WHEREAS**, the Financial Plan shall include the aggregate amount of funds to be authorized by the I-Bank for such purposes; and

**WHEREAS**, the Project Eligibility List shall consist of Transportation Projects that are eligible to be included therein pursuant to the Act; and

**WHEREAS**, in connection with its receipt of financial assistance from the I-Bank, each Borrower will enter into a Loan Agreement (hereinafter defined) with the I-Bank, pursuant to which the I-Bank will make a Loan to each such Borrower to finance or refinance, or to reimburse such Borrower for Costs incurred in connection with, the acquisition, construction and installation of one or more Transportation Projects, upon the terms and conditions as required by the Act, such Loan Agreement and as hereinafter set forth; and

**WHEREAS**, the Bonds of the I-Bank issued pursuant to the Indenture shall be special obligations of the I-Bank payable solely from the revenues or other receipts, funds or moneys to be derived by the I-Bank under or pursuant to the Loan Agreements and other revenues, receipts, funds or moneys pledged therefor and under the Indenture; and

**WHEREAS**, the I-Bank (i) may have issued or may issue bonds from time to time pursuant to one or more indentures of trust with a bond trustee named or to be named therein, for the purpose of providing loans or other financial assistance to Borrowers for costs of projects that are eligible for financing under Additional Programs (hereinafter defined) and/or (ii) may have entered into or may enter into one or more master program trust agreements with a master program trustee named or to be named therein, for the purpose of securing bonds issued from time to time pursuant to Additional Programs in order to facilitate the provision of loans or other financial assistance to Borrowers for costs of projects that are eligible for financing under such Additional Programs (each such indenture of trust or master program trust agreement, an “Additional Program Indenture”, and each such bond trustee or master program trustee, an “Additional Program Trustee”); and

**WHEREAS**, in order to provide additional security for the Bonds issued pursuant to the Indenture, the I-Bank has determined, in accordance with the Act, to permit the temporary investment of available funds held in accordance with an Additional Program Indenture, in the

Cross-Investment Fund (hereinafter defined) established under this Master Indenture, for the purpose of curing any payment-related defaults occurring under the Indenture; and

**WHEREAS**, in order to provide additional security for bonds of the I-Bank issued or secured pursuant to an Additional Program Indenture, the I-Bank has determined, in accordance with the Act, to permit the temporary investment of available funds held in the Cross-Investment Fund established under this Master Indenture, in an Additional Program Indenture, for the purpose of curing any payment-related defaults occurring under or with respect to an Additional Program Indenture; and

**WHEREAS**, the temporary investment of funds held under the Cross-Investment Fund into an Additional Program Indenture, and the temporary investment of funds held under the terms of an Additional Program Indenture into the Cross-Investment Fund, for the purpose of providing additional security for Bonds issued pursuant to the Indenture and bonds issued or secured pursuant to an Additional Program Indenture, is hereinafter referred to as a “Cross-Investment;” and

**WHEREAS**, all acts, conditions and things necessary or required by the State Constitution, the Act and other statutes of the State or otherwise, to exist, happen, and be performed as prerequisites to the execution and delivery of this Master Indenture, do exist, have happened, and have been performed; and

**WHEREAS**, the I-Bank desires to do all things necessary to make its Bonds, when authenticated by the Trustee and issued as provided in the Indenture, the valid, binding and legal obligations of the I-Bank according to the import hereof and to constitute this Master Indenture a valid pledge of the Trust Estate (hereinafter defined), provision for which is herein made, to secure the payment of the principal and Redemption Price (hereinafter defined) of, and interest on, the Bonds; and

**WHEREAS**, the Trustee has the power to enter into this Master Indenture and to execute the trusts hereby and has accepted the trusts created by this Master Indenture and in evidence thereof has joined in the execution hereof;

## **GRANTING CLAUSES**

### **NOW, THEREFORE, THIS MASTER INDENTURE FURTHER WITNESSETH:**

That the I-Bank, in consideration of the promises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds by the Bondholders thereof, and for good and valuable consideration, the receipt of which is hereby acknowledged, in order to secure the payment of the principal of, premium, if any, and interest on the Bonds at any time issued and Outstanding (hereinafter defined) hereunder according to their tenor and effect, and to secure the performance and observance by the I-Bank of all of the covenants expressed or implied herein and in the Bonds, does hereby grant, bargain, sell, convey, assign and pledge, and grant a security interest in, to the Trustee, and its successors in trust and assigns forever, to the extent provided in the Indenture (capitalized terms used in these granting clauses and not defined herein shall have the meanings ascribed thereto in Section 1.01 hereof):

### **GRANTING CLAUSE FIRST**

All rights, title and interest of the I-Bank in, to and under the Loan Agreements (except for the Reserved Rights of the I-Bank under the Loan Agreements and the I-Bank's right, title and interest in and to the Loan Origination Fees, the Administrative Fees and the Late Fees);

### **GRANTING CLAUSE SECOND**

All rights, title and interest of the I-Bank in, to and under the Revenues;

### **GRANTING CLAUSE THIRD**

All rights, title and interest of the I-Bank in, to and under all funds, accounts and subaccounts established by the Indenture (other than amounts in (i) the Loan Servicing Account constituting Loan Origination Fees and Administrative Fees, (ii) the Fee Fund, (iii) the Project Fund, (iv) the Rebate Fund, and (v) the Cross-Investment Fund), including investments, if any, thereof, subject only to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in the Indenture;

### **GRANTING CLAUSE FOURTH**

All other property of any kind, if any, mortgaged, pledged or hypothecated by the I-Bank at any time as and for additional security for the Bonds, or by anyone properly authorized on behalf of the I-Bank or with its written consent, in favor of the Trustee, which is hereby authorized to receive all such property at any time and to hold and apply it subject to the terms hereof;

**SUBJECT, HOWEVER,** to: (i) the provisions of this Master Indenture permitting the release or application thereof for the purposes and on the terms and conditions set forth in this Master Indenture, including, but not limited to, the right of the I-Bank to withdraw or otherwise cause to be substituted for or released from the Trust Estate any Loan Agreements pursuant to Section 4.01; and (ii) the following conditions: (1) that the Holders of the Bonds shall not be responsible or liable in any manner or to any extent for the performance of any of the covenants or provisions thereof to be performed by the I-Bank and (2) that, unless and until the Trustee shall, in its discretion when an Event of Default shall have occurred and shall be continuing, so elect, by instrument in writing delivered to the I-Bank and the Borrower (and then only to the extent that the Trustee shall so elect), the Trustee shall not be responsible or liable in any manner or to any extent for the performance of any of the covenants or provisions contained in any Loan Agreement to be performed by the I-Bank (except to the extent of actions undertaken by the Trustee in the course of performing any such covenant or provision), and (3) with respect to each Loan Agreement that is part of the Trust Estate, the I-Bank shall remain liable to observe and perform all the conditions and covenants in such Loan Agreement provided to be observed and performed by it;

**SUBJECT, FURTHER, HOWEVER,** to the qualification that the lien on and pledge of amounts on deposit in any Fund, Account or Subaccount securing Senior Bonds shall not secure any Senior Bonds for which a Supplemental Indenture expressly waives the lien on and pledge of amounts on deposit in such Fund, Account or Subaccount;

**SUBJECT, FURTHER, HOWEVER,** to the qualification that the lien on and pledge of amounts on deposit in any Fund, Account or Subaccount securing Subordinated Bonds shall not secure any Subordinated Bonds for which a Supplemental Indenture expressly waives the lien on and pledge of amounts on deposit in such Fund, Account or Subaccount;

**TO HAVE AND TO HOLD** all the same with all privileges and appurtenances hereby transferred, pledged, conveyed, assigned and/or granted, or agreed or intended to be, to the Trustee and its assigns in trust forever;

**IN TRUST NEVERTHELESS,** upon the terms and trusts herein set forth:

(a) with respect to Senior Bonds, for the equal and proportionate benefit, security and protection of the Holders of the Senior Bonds issued by the I-Bank and secured by the Indenture, except as otherwise provided in any Supplemental Indenture,

(b) with respect to Subordinated Bonds, for the equal and proportionate benefit, security and protection of the Holders of the Subordinated Bonds issued by the I-Bank and secured by the Indenture, except as otherwise provided in any Supplemental Indenture,

(c) for the enforcement of the payment of the principal and Redemption Price of, and interest on, the Bonds, at any time issued and Outstanding hereunder, and all other amounts due from time to time under the Indenture, including those due to the Trustee and the I-Bank, when payable, according to the true intent and meaning thereof and hereof; and

(d) to secure the performance and observance of all the covenants, agreements and conditions of the I-Bank hereunder, under the Loan Agreements and under the Bonds, all in accordance with the covenants, agreements, obligations, terms and conditions thereof and hereof, in each case, without privilege, preference, priority or distinction, except as otherwise hereinafter provided, as to priority of lien or otherwise, of any of such Bonds over any other of the Bonds of the same priority of lien, by reason of designation, number, date of the Bonds or of authorization, issuance, sale, execution, authentication, delivery or maturity thereof, or otherwise so that each Bond and all Bonds of the same priority often shall have the same right, lien and privilege under the Indenture and shall be secured equally and ratably by the Indenture, except as otherwise provided in any Supplemental Indenture, it being intended that the lien and security of the Indenture shall take effect from the date hereof and the date of each applicable Supplemental Indenture, without regard to the date of the actual issue, sale or disposition of the Bonds, as though upon that date all of the Bonds were actually issued, sold and delivered to purchasers for value; provided, however, that upon satisfaction of and in accordance with the provisions of Article XIV, the rights assigned hereby shall cease, determine and be void to the extent described therein; otherwise, such rights shall be and remain in full force and effect;

**PROVIDED, HOWEVER,** that the pledge of the right, title and interest of the I-Bank in and to the Trust Estate is given subject to the right of the I-Bank to issue a Series of Bonds secured on a parity or subordinate basis with the Bonds by the Trust Estate;

**PROVIDED FURTHER, HOWEVER,** that the assignment and pledge of the Trust Estate does not include: (A) the rights of the I-Bank pursuant to provisions for consent,

concurrence, approval or other action by the I-Bank, notice to the I-Bank or the filing of reports, certificates or other documents with the I-Bank; or (B) the powers of the I-Bank as stated herein to enforce the provisions hereof; and

**THIS MASTER INDENTURE FURTHER WITNESSETH**, and it is expressly declared, that all Bonds from time to time issued and secured hereunder and under an applicable Supplemental Indenture are to be issued, authenticated and delivered, and said property, rights and interest, including, without limitation, the amounts assigned and pledged hereby and by an applicable Supplemental Indenture, are to be dealt with and disposed of subject to the terms of the Indenture, and the I-Bank agrees with the Trustee and with the respective Holders, from time to time, of said Bonds or any part thereof, as follows:



**ARTICLE I.**  
**DEFINITIONS; RULES OF CONSTRUCTION; LIABILITY UNDER BONDS**

**Section 1.01 Definitions.** The terms defined in this Section 1.01 shall for all purposes of the Indenture have the meanings herein specified, unless the context clearly otherwise requires:

**“Account”** or **“Accounts”** means each of the accounts established by this Master Indenture or any Supplemental Indenture.

**“Accreted Value”** means with respect to any Capital Appreciation Bond: (i) as of any Valuation Date, the amount set forth for such date in the Supplemental Indenture authorizing such Capital Appreciation Bond and (ii) as of any date other than a Valuation Date, the sum of (a) the Accreted Value on the immediately preceding Valuation Date and (b) the product of (1) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days from such preceding Valuation Date to the next succeeding Valuation Date, calculated based on the assumption that Accreted Value accrues during any semiannual period in equal daily amounts on the basis of a year of twelve (12) thirty-day months, and (2) the difference between the Accreted Values for such Valuation Dates.

**“Act”** shall mean the “New Jersey Infrastructure Trust Act”, constituting Chapter 334 of the Pamphlet Laws of 1985 of the State (codified at N.J.S.A. 58:11B-1 et seq.), as the same may be amended and supplemented from time to time.

**“Additional Program”** shall mean another financing program of the I-Bank, whether such other financing program is now existing or is hereafter established pursuant to the Act. By way of example but not limitation, each of the following financing programs may constitute an Additional Program: a program to finance “aviation projects”, as such term is defined in the Act; a program to finance “marine projects”, as such term is defined in the Act; a program to finance “environmental infrastructure projects”, as such term is defined in the Act.

**“Additional Program Indenture”** shall have the meaning given such term in the Recitals hereto.

**“Additional Program Trustee”** shall have the meaning given such term in the Recitals hereto.

**“Administrative Fee”** means the annual fee owed by a Borrower to the I-Bank established by, and pursuant to the terms of, the Financial Plan that is in effect at the time of the closing of the Applicable Borrower’s Loan, payable to the I-Bank by the Applicable Borrower in accordance with the terms of its Loan Agreement.

**“Aggregate Senior Bonds Debt Service”** means for any Bond Year, as of any date of calculation, the sum of the Debt Service for all Senior Bonds Outstanding during such Bond Year.

**“Aggregate Subordinated Bonds Debt Service”** means for any Bond Year, as of any date of calculation, the sum of the Debt Service for all Subordinated Bonds Outstanding during such Bond Year.

**“Aggregate Debt Service”** means for any Bond Year, as of any date of calculation, the sum of the Aggregate Senior Bonds Debt Service and the Aggregate Subordinated Bonds Debt Service.

**“Allowable Project Cost”** means, for any Borrower, the Allowable Project Cost as initially defined in Exhibit B to such Borrower’s Loan Agreement.

**“Annual Appropriation Amount”** means the amount appropriated by the New Jersey Legislature each year to or for use by the I-Bank for deposit into the State Funded transportation project subaccount of the State Transportation Infrastructure Bank Fund to finance or refinance transportation project loans.

**“Applicable” or “applicable”** means (i) with reference to any Supplemental Indenture, the particular Supplemental Indenture that is at issue for the purposes of the application of the terms of the Indenture in the context thereof, (ii) with reference to any Series of Bonds, the particular Series of Bonds, that is at issue for the purposes of the application of the terms of the Indenture in the context thereof, (iii) with reference to any Fund, Account or Subaccount so designated and established by the Indenture, the particular Fund, Account or Subaccount so designated and established and that is at issue for the purposes of the application of the terms of the Indenture in the context thereof, (iv) with reference to any Borrower, the particular Borrower that is at issue for the purposes of the application of the terms of the Indenture in the context thereof, and (v) with respect to any Loan Agreement (and the Loan made pursuant to the terms thereof), the particular Loan Agreement (and the Loan made pursuant to the terms thereof) entered into by and between a Borrower and the I-Bank, relating to a borrowing from the I-Bank, and that is at issue for the purposes of the application of the terms of the Indenture in the context thereof.

**“Appreciated Value”** means with respect to any Deferred Income Bond: (i) as of any Valuation Date, the amount set forth for such date in the Supplemental Indenture authorizing such Deferred Income Bond and (ii) as of any date other than a Valuation Date, the sum of (a) the Appreciated Value on the immediately preceding Valuation Date and (b) the product of (1) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days from such preceding Valuation Date to the next succeeding Valuation Date, calculated based on the assumption that Appreciated Value accrues during any semiannual period in equal daily amounts on the basis of a year of twelve (12) thirty-day months, and (2) the difference between the Appreciated Values for such Valuation Dates, and (iii) as of any date of calculation on and after the Interest Commencement Date, the Appreciated Value on the Interest Commencement Date.

**“Authorized Officer”** means (i) in the case of the I-Bank, the Chairperson, Vice-Chairperson, Secretary or Executive Director of the I-Bank, or any other person or persons designated by the Board by resolution to act on behalf of the I-Bank pursuant to the Indenture; the designation of such person or persons shall be evidenced by a written Certificate containing the specimen signature of such person or persons and signed on behalf of the I-Bank by its

Chairperson, Vice-Chairperson, Secretary or Executive Director and delivered to the Trustee; and (ii) in the case of a Borrower, any person or persons authorized pursuant to a resolution or ordinance of the governing body of the Borrower to perform any act or execute any document; the designation of such person or persons shall be evidenced by a certified copy of such resolution or ordinance delivered to the I-Bank and the Trustee.

**“Board”** means the Board of Directors of the I-Bank, or if said Board shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof or to whom the powers and duties granted or imposed by the Indenture shall be given by law.

**“Bond” or “Bonds”** means the bonds, notes and other obligations (including but not limited to Commercial Paper) of the I-Bank issued from time to time pursuant to the Indenture, including any Senior Bonds or Subordinated Bonds, any Refunding Bonds and any Bonds issued to and held by the I-Bank as purchaser and Holder thereof pursuant to the terms of a Supplemental Indenture and, except as expressly limited hereby or otherwise expressly provided herein, any Parity Repayment Obligations, any Parity Reimbursement Obligations and any Subordinated Reimbursement Obligations; provided, however, that a Parity Repayment Obligation, a Parity Reimbursement Obligation or a Subordinated Reimbursement Obligation shall only be considered a Bond for purposes of Article I, Section 3.03, Article V, Article VI, Article VII, Article IX and Article XV.

**“Bond Counsel”** means Chiesa Shahinian & Giantomasi PC or other counsel selected by the I-Bank and nationally recognized as experienced in matters relating to bonds issued by states and their political subdivisions.

**“Bond Payment Date”** means each June 1 and December 1 on which payment of principal or Redemption Price or interest with respect to any Bonds shall be due and payable or such other dates as set forth in a Supplemental Indenture.

**“Bond Register”** means the bond register specified in Section 3.07.

**“Bondholder”, “Holder”, “holder”, “Owner”, or “owner”** means any person who shall be the registered owner of a Bond or Bonds, including, but not limited to, the I-Bank if the I-Bank shall be the purchaser and Holder of a Bond or Bonds pursuant to the terms of a Supplemental Indenture.

**“Bondholder Action”** shall mean any request, demand, authorization, direction, notice, consent or waiver.

**“Bond Year”** means, for purposes of the Indenture and the tests set forth herein, each twelve-month period ending on December 1 of any year in which Bonds are Outstanding.

**“Borrower”** means a Local Government Unit authorized to construct, operate and maintain Transportation Projects that has entered into a Loan Agreement with the I-Bank pursuant to which the I-Bank will make a Loan to the Borrower.

**“Borrower Bond”** means the bond issued by a Borrower to the I-Bank to evidence the Loan made by the I-Bank to the Borrower pursuant to the Applicable Loan Agreement, for the purpose of financing or refinancing a portion of the Cost of such Borrower’s Project.

**“Borrower’s Project”** means the respective Transportation Project of the Borrower, as described in the Applicable Loan Agreement, which constitutes a project or projects for which the I-Bank is permitted to make a loan to the Borrower pursuant to the Act.

**“Business Day”** means, with respect to the Bonds of any Series, any day other than (i) a Saturday or Sunday, (ii) a legal holiday in the State, (iii) a legal holiday in the city in which the Principal Office of the Trustee or the Paying Agent is located, (iv) a day on which banking institutions, in the State or the city in which the Principal Office of the Trustee or the Paying Agent is located, are closed, or (v) a day on which the New York Stock Exchange is closed; provided, however, that, with respect to Option Bonds or Variable Interest Rate Bonds of a Series, such term means any day which is not a Saturday, Sunday, a day on which the Trustee, the New York Stock Exchange, banking institutions chartered by the State or the United States of America or the issuer of a Credit Facility or Liquidity Facility for such Bonds are legally authorized to close in the State, or a day that is a legal holiday for the State.

**“Capital Appreciation Bond”** means any Bond as to which interest is compounded on each Valuation Date therefor and is payable only at the maturity or prior redemption thereof.

**“Capitalized Interest Account”** means the Account of that name established by Section 5.01(a)(iv) in the Debt Service Fund or by Section 5.01(a)(vii) and Section 5.07 in the Subordinated Debt Service Fund, as applicable.

**“Certificate”, “Order”, “Request”, “Requisition” and “Statement”** mean, respectively, a written Certificate, order, request, requisition, or statement signed in the name of the I-Bank, the Trustee or a Borrower by an Authorized Officer of the I-Bank, the Trustee or such Borrower, respectively. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the instruments so combined shall be read and construed as a single instrument.

**“C-I Receiving Account”** means the Account of that name within the Cross-Investment Fund so designated and established by Article V hereof.

**“C-I Sending Account”** means the Account of that name within the Cross-Investment Fund so designated and established by Article V hereof.

**“Cross-Investment”** shall have the meaning given such term in the Recitals hereto.

**“Cross-Investment Additional Program Note”** shall mean a short-term obligation issued pursuant to an Additional Program Indenture to secure the I-Bank’s obligations, pursuant to a Cross-Investment Agreement, to repay a Cross-Investment made into the Additional Program Indenture. A Cross-Investment Additional Program Note shall be subordinate in all respects to any Series of Senior Bonds or Series of Subordinated Bonds then Outstanding or thereafter issued under such Additional Program Indenture.

**“Cross-Investment Agreement”** shall mean an investment agreement entered into in connection with a Cross-Investment.

**“Cross-Investment Fund”** means the Fund of that name established by Article V hereof.

**“Cross-Investment Obligation”** shall mean a short-term obligation issued pursuant to Section 5.12 of this Indenture to secure the I-Bank’s obligations, pursuant to a Cross-Investment Agreement, to repay a Cross-Investment made into this Master Indenture. A Cross-Investment Obligation shall be subordinate in all respects to any Series of Senior Bonds or Series of Subordinated Bonds then Outstanding or thereafter issued under this Master Indenture.

**“Code”** means the Internal Revenue Code of 1986, as the same may from time to time be amended or supplemented, including any regulations promulgated thereunder and any administrative or judicial interpretations thereof.

**“Commercial Paper”** means notes of the I-Bank issued from time to time pursuant to a Commercial Paper Program adopted by the I-Bank, such notes to have a maturity specified in the applicable Supplemental Indenture.

**“Commercial Paper Program”** means a program authorized by the I-Bank pursuant to which Commercial Paper is issued from time to time, up to the authorized amount of such Program.

**“Common Reserve Account”** means the Account of that name established by Section 5.01(a)(viii) in the Debt Service Reserve Fund to secure the Common Reserve Bonds.

**“Common Reserve Bonds”** means the Senior Bonds of any Series secured by the Common Reserve Account as provided in the Applicable Supplemental Indenture providing for the issuance of each such Series of Senior Bonds.

**“Conditional Redemption”** shall have the meaning ascribed to that term in Section 8.01.

**“Cost”** or **“Costs”** means those costs that are eligible, reasonable, necessary, allocable to a Borrower’s Project and permitted by generally accepted accounting principles, as shall be determined on a project-specific basis and in accordance with the Act.

**“Costs of Issuance”** means all items of expense directly or indirectly payable by or reimbursable to the I-Bank and related to the authorization, execution, issuance, sale and delivery of each Series of Bonds, including, but not limited to, printing costs, costs of reproducing documents, filing and recording fees, initial fees and charges of the Trustee or a Depository, legal fees and charges, professional consultants’ fees and disbursements, costs of credit ratings, fees and charges for execution, transportation and safekeeping of the Bonds, underwriting or placement fees (including, but not limited to, underwriting discount), fees of a Remarketing Agent, fees, and expenses payable in connection with any Credit Facility, Liquidity Facility, Hedge Agreement (including, but not limited to, Termination Payments), or Reserve Deposits, and other costs, charges and fees in connection with the issuance of the Bonds.

**“Costs of Issuance Account”** means the Account within the Operating Expense Fund so designated and established by Article V hereof.

**“Counsel”** means an attorney at law or firm of attorneys at law (who may be, without limitation, of counsel to, or an employee of, the I-Bank, the Trustee, the Paying Agent or any Borrower) duly admitted to practice law before the highest court of the State of New Jersey, or other United States jurisdiction, or otherwise qualified to practice law in the State of New Jersey or other United States jurisdiction.

**“Corporate Trust Office”** means the office of the Trustee at which at any particular time its corporate trust business shall be principally administered.

**“Counterparty”** means any person with which the I-Bank has entered into a Hedge Agreement, and such person’s successors and assigns.

**“Credit Facility”** means an irrevocable letter of credit, surety bond, loan agreement, Standby Purchase Agreement or other agreement, facility or insurance or guaranty arrangement pursuant to which the I-Bank or the Trustee is entitled to obtain money to pay the principal, purchase price or Redemption Price of Bonds due in accordance with their terms or tendered for purchase or redemption, plus accrued interest thereon to the date of payment, purchase or redemption thereof whether or not the I-Bank is in default hereunder, which is issued or extended by:

(A) a bank, a trust company, a national banking association, an organization subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provisions of law;

(B) a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law;

(C) a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America;

(D) a savings bank;

(E) a saving and loan association;

(F) an insurance company or association chartered or organized under the laws of any state of the United States of America;

(G) the Government National Mortgage Association or any successor thereto or the Federal National Mortgage Association or any successor thereto;

(H) an entity affiliated with or which is a subsidiary of any entity described above or affiliated with or a subsidiary of any registered securities dealer; or

(I) any other entity approved by the I-Bank.

**“Credit Rating Agency”** means any of Fitch, Moody’s, S&P or such other nationally recognized rating agency or agencies, if any, that have published ratings for the Bonds.

**“Debt Service”** for any Bond Year or part thereof means, as of any date of calculation and with respect to any Series, an amount equal to the sum of (i) interest payable during such Bond Year or part thereof on Outstanding Bonds of such Series (except to the extent that such interest is to be paid from amounts representing capitalized interest), including interest payable on Deferred Income Bonds from and after their respective Interest Commencement Dates and (ii) Principal Installments of the Outstanding Bonds of such Series payable during such Bond Year or part thereof. Such interest and Principal Installment for such Series shall be calculated on the assumption that no Bonds of such Series Outstanding at the date of calculation will cease to be Outstanding except by reason of the payment thereof upon stated maturity or upon mandatory redemption by application of Sinking Fund Installments; provided, however, that if the interest at which a Variable Interest Rate Bond will bear interest at any time during such period is not known, the Trustee shall calculate such interest based upon a rate per annum certified to it by the I-Bank as the rate the I-Bank has assumed such Variable Interest Rate Bond will bear.

**“Debt Service Fund”** means the fund of that name established by Section 5.01(a)(vi).

**“Debt Service Reserve Fund”** means the fund of that name established by Section 5.01(a)(viii) hereof.

**“Default”** means an event or condition the occurrence of which would, with the lapse of time or the giving of notice or both, become an Event of Default with respect to the Bonds as described in Section 10.01 hereof.

**“Defaulting Borrower”** means any Borrower (a) which the I-Bank shall specify, in an Officer’s Certificate delivered to the Trustee, as being in default under such Borrower’s Loan Agreement until such time as the I-Bank shall specify, in an Officer’s Certificate delivered to the Trustee, that such Borrower is no longer in default under such Loan Agreement and/or (b) which the Trustee shall specify in a notice to the I-Bank to the effect that the Trustee has not timely received any portion of a Loan Repayment of such Borrower due under such Borrower’s Loan Agreement and/or that the Trustee has knowledge of any other event of default under such Loan Agreement.

**“Defeasance Securities”** means:

- (i) Government Obligations;
- (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality, including United States Agency for International Development securities, and that, on the date the I-Bank adopts or approves proceedings authorizing the issuance of Refunding Bonds or, if such defeasance is not in connection with the issuance of Refunding Bonds, on the

date the I-Bank provides for the funding of an escrow to effect the defeasance of the Bonds, are rated as to investment quality by a nationally-recognized investment rating firm not less than “AAA” or its equivalent;

(iii) If provided pursuant to a Supplemental Indenture, noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the I-Bank adopts or approves proceedings authorizing the issuance of Refunding Bonds or, if such defeasance is not in connection with the issuance of Refunding Bonds, on the date the I-Bank provides for the funding of an escrow to effect the defeasance of the Bonds, are rated as to investment quality by a nationally-recognized investment rating firm not less than “AAA” or its equivalent; or

(iv) any other then authorized securities or obligations that may be used to defease obligations such as the Bonds under the then applicable laws of the State.

**“Deferred Income Bond”** means any Bond as to which interest accruing thereon prior to the Interest Commencement Date therefor is compounded on each Valuation Date for such Deferred Income Bond, payable at maturity or earlier redemption, and interest accruing from and after the Interest Commencement Date is payable on the Interest Payment Dates therefor.

**“Department”** means the New Jersey Department of Transportation.

**“Depository”** or **“DTC”** means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State, or its nominee, or any other person, firm, association or corporation designated in the Supplemental Indenture authorizing a Series of Bonds to serve as securities depository for Bonds of such Series.

**“Disbursement Procedures”** mean with respect to each Loan the procedures and provisions set forth in the applicable Loan Agreement.

**“Electronic Means”** means telecopy, facsimile transmission, email transmission or other similar electronic means of communication providing evidence of transmission, including a telephone communication confirmed by any other method set forth in this definition.

**“EMMA”** shall mean the MSRB’s Electronic Municipal Market Access system, or any other electronic municipal securities information access system designated by the MSRB for collecting and disseminating primary offering documents and information.

**“Event of Default”** means any occurrence or event designated as such in Section 10.01.

**“Federal Agency”** means any department, agency or instrumentality of the federal government of the United States of America, other than the USDOT or one of its Administrations, which may include, without limitation, an instrumentality of the federal government of the United States of America, currently existing or as may be established in the future, that operates as a federal infrastructure bank or other federal infrastructure financing instrumentality.

**“Fee Fund”** means the fund of that name established by Section 5.01(a)(iv) hereof.



**“Fiduciary”** or **“Fiduciaries”** means the Trustee or the Paying Agent, or both of them, as may be appropriate.

**“Financial Plan”** means that certain financial plan developed for, and applicable to, the particular State fiscal year during which Bonds of a particular Series shall be issued pursuant hereto, which financial plan shall be prepared as required by, and in accordance with, Section 22.3 of the Act, and approved by a concurrent resolution duly adopted by the Legislature of the State.

**“Fiscal Year”** means the twelve-month period beginning on July 1 and ending on June 30, unless a different twelve-month period or such other period as may be specified, from time to time, in the By-laws of the I-Bank.

**“Fitch”** means Fitch, Inc. and its successors and assigns; provided, however, that references hereto to Fitch shall be effective so long as Fitch is a Credit Rating Agency recognized as an NRSRO as defined herein.

**“Fund”** or **“Funds”** means each of the funds established by Section 5.01 or any Supplemental Indenture.

**“Government Obligations”** means secured obligations of the United States of America including Treasury bills, Treasury notes, Treasury bonds, and Treasury Inflation-Protected Securities.

**“Hedge Agreement”** means any financial arrangement entered into by the I-Bank, with the prior written consent of the State Treasurer and consultation with Bond Counsel and the Office of the State Attorney General, with another person that (i) is executed in connection with Bonds and is an Interest Rate Exchange Agreement, an interest rate cap or collar or other exchange or rate protection transaction, or (ii) is an agreement for the forward purchase of securities for the investment of money of the I-Bank in any Fund, Account or Subaccount established hereby.

**“Hedge Agreement Payment”** means any periodic or regularly scheduled payment required to be made by the I-Bank pursuant to a Hedge Agreement, but does not include a Termination Payment.

**“Indenture”** means this Master Indenture, as amended and supplemented from time to time in accordance with the terms and provisions hereof by one or more Supplemental Indentures, unless in the case of any one or more Supplemental Indentures the context requires otherwise.

**“Initial Bonds”** mean the Bonds of the first Series authorized and issued under the Indenture.

**“Interest Account”** means the Account of that name established by Section 5.01(a)(vi) in the Debt Service Fund, or by Section 5.01(a)(vii) in the Subordinated Debt Service Fund, as applicable.

**“Interest Commencement Date”** means, with respect to any particular Deferred Income Bond, the date prior to the maturity date thereof after which interest accruing thereon shall be payable on each Interest Payment Date succeeding such Interest Commencement Date.

**“Interest Payment Date”** means, each June 1 and December 1 on which payment of accrued interest on the Bonds of such Series shall be due and payable or such other dates as set forth in a Supplemental Indenture.

**“Interest Rate Exchange Agreement”** means an agreement entered into by the I-Bank, with the prior written consent of the State Treasurer, in connection with the issuance of or which relates to any Bonds which provides that during the term of such agreement the I-Bank is to pay to the Counterparty an amount based on the interest accruing at a fixed or variable rate per annum on a notional amount equal to the principal amount of such Bonds and that the Counterparty is to pay to the I-Bank an amount based on the interest accruing on such notional amount at a fixed or variable rate, in each case computed according to a formula set forth in such agreement, or that one shall pay to the other any net amount due under such agreement.

**“Interest Subsidy Account”** means the Account within the Debt Service Fund so designated and established by Article V hereof.

**“Investment Securities”** means and includes any of the following securities, if and to the extent the same are at the time legal for investment of the I-Bank’s funds, which securities may be obligations of the Trustee to the extent qualified hereunder:

- (A) Defeasance Securities;
- (B) Government Obligations;
- (C) the following bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full-faith and credit of the United States of America (stripped securities being permitted only if they have been stripped by the agency itself):
  - (i) direct obligations or fully guaranteed certificates of beneficial ownership of The Export-Import Bank of the United States;
  - (ii) participation certificates and guaranteed pool certificates of the Small Business Administration;
  - (iii) debentures of the Federal Housing Administration;
  - (iv) guaranteed mortgage-back bonds and guaranteed mortgage-backed obligations of the Government National Mortgage Association; and

- (v) project notes, local authority bonds, guaranteed debentures and guaranteed public housing notes and bonds of the Department of Housing and Urban Development;
- (D) the following bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit of the United States government agencies (stripped securities being permitted only if they have been stripped by the agency itself):
  - (i) senior debt obligations of the Federal Home Loan Bank System (“FHLB”);
  - (ii) senior debt obligations of the Federal Farm Credit System;
  - (iii) mortgage-backed securities and senior debt obligations of the Federal Home Loan Mortgage Corporation; and
  - (iv) mortgage-backed securities and senior debt obligations of the Federal National Mortgage Association;
- (E) commercial paper, with a maturity not greater than 270 days (but excluding any form of form of Extendable Commercial Paper), and rated, at the time of purchase, “Prime-1” by Moody’s, “F1” or better by Fitch or “A-1” or better by S&P;
- (F) Municipal Obligations;
- (G) money market funds registered under the Investment Company Act of 1940, the shares of which are registered under the Securities Act of 1933, and having a rating of no less than “AA” or its equivalent from a national recognized rating agency; including, if so rated, any such fund which the Trustee or an affiliate of the Trustee serves as an investment advisor, administrator, shareholder, servicing agent and/or custodian or sub-custodian, notwithstanding that (a) the Trustee or an affiliate of the Trustee charges and collects fees and expenses (not exceeding current income) from such funds for services rendered, (b) the Trustee charges and collects fees and expenses for services rendered pursuant to this Master Indenture and (c) services performed for such funds and pursuant to the Indenture may converge at any time (the I-Bank specifically authorizes the Trustee or an affiliate of the Trustee to charge and collect all fees and expenses from such funds for services rendered to such funds, in addition to any fees and expenses the Trustee may charge and collect for services rendered pursuant to this Master Indenture);
- (H) certificates of deposit, savings accounts, deposit accounts, bank deposit products or money market deposits which are fully insured by the Federal

Deposit Insurance Corporation or fully secured as to both principal and interest by a FHLB Letter of Credit (“LOC”) or collateralized by government securities as described in clauses (B) and (C) above;

- (I) investment agreements or guaranteed investment contracts with any financial institution or corporation, any insurance company, a registered broker/dealer or a domestic commercial bank whose senior long term debt obligations are rated, or guaranteed by a financial institution, whose senior long term debt obligations are rated, at the time such agreement or contract is entered into, in one of the two highest long-term rating categories by at least two Rating Agencies, and without regard to ratings subcategories. Financial agreements with institutions having senior debt ratings below “AA” must be fully secured as to principal balance and accrued interest by securities described in clause (B) or (C) above, or a FHLB LOC. In the event that the counterparty’s required debt rating on the unsecured agreement is suspended, withdrawn or reduced below the rating the I-Bank has an option to (a) terminate such agreement or contract or (b) require the balance of such agreement or contract to be fully collateralized by securities described in clause (B) or (C) above. All collateral security I-Bank deposits shall require:
  - (i) a specific written collateral agreement governing the transaction(s);
  - (ii) any collateral securities must be held free and clear of any lien, by the Trustee or by a trustee of an independent third party acting solely as the agent of the Trustee that is either a Federal Reserve Bank or a member of the Federal Deposit Insurance Corporation that has combined surplus and undivided profits of not less than one-hundred million dollars (\$100,000,000), and the Trustee shall have received written confirmation from such third party that it holds such securities, free and clear of any lien, as agent for the Trustee;
  - (iii) the agreement has a term of thirty days or less, or either the Trustee, if the Trustee holds the collateral, or a custodian of the collateral or a valuation agent selected by the I-Bank, will value the collateral securities no less frequently than monthly, will liquidate the collateral securities if any deficiency in the required collateral percentage is not restored within five (5) Business Days of such valuation; and
  - (iv) the fair market value of the collateral securities in relation to the amount of the obligation, including principal and interest, is equal to at least one hundred two percent (102%);
- (J) investments in short-term obligations of the I-Bank’s Water Bank (pursuant to and in satisfaction of the provisions of N.J.S.A. 58:11B-5(n)) and short

term obligations of any other Additional Programs established by the I-Bank, in each case, if and to the extent permitted by the Act;

- (K) other obligations or securities that either (i) under the applicable standards and guidelines of each Credit Rating Agency then maintaining a rating on Bonds issued and Outstanding under this Indenture, are investments in which money in a particular Fund, Account or Subaccount under the Indenture may be invested by the I-Bank, or (ii) as to the investment therein for any Fund, Account or Subaccount, the I-Bank has received a Rating Confirmation or an indicative rating conclusion, or similar determination, from each Credit Rating Agency then maintaining a rating on Bonds issued and Outstanding hereunder to the effect that, assuming no other significant rating factor changed, the proposed investment would likely not result in an adverse change in the then-existing rating on such Bonds;
- (L) deposits in the New Jersey Cash Management Fund; and
- (M) any other investments as may be legal investments for funds of the State or any State agency.

**“Late Fee”** means the Late Fee (as such term is defined in the Applicable Loan Agreement) owed by a Borrower to the I-Bank pursuant to the terms of the Applicable Loan Agreement.

**“Liquidity Facility”** means a letter of credit, surety bond, loan agreement, Standby Purchase Agreement, line of credit or other agreement or arrangement pursuant to which money may be obtained upon the terms and conditions contained therein for the purchase or redemption of Option Bonds tendered for purchase or redemption in accordance with the terms hereof and of the Supplemental Indenture authorizing such Bonds, which is issued or provided by:

(A) a bank, a trust company, a national banking association, an organization subject to registration with the Board of Governors of the Federal Reserve System under the I-Bank Holding Company Act of 1956 or any successor provisions of law;

(B) a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law;

(C) a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America;

(D) a savings bank;

(E) a saving and loan association;

(F) an insurance company or association chartered or organized under the laws of any state of the United States of America;

(G) the Government National Mortgage Association or any successor thereto or the Federal National Mortgage Association or any successor thereto;

(H) an entity affiliated with or which is a subsidiary of any entity described above or affiliated with or a subsidiary of any registered securities dealer; or

(I) any other entity approved by the I-Bank.

**“Loan”** means, collectively, a loan or any other credit instrument provided by the I-Bank to a Borrower, pursuant to the Applicable Loan Agreement and the Act, to finance or refinance a portion of the Cost of such Borrower’s Project. For all purposes of this Indenture, the Principal Amount of a Loan shall be the principal amount specified as such in the Applicable Loan Agreement.

**“Loan Agreement”** means a loan agreement or other agreement that is entered into by and between the I-Bank and a Borrower, pursuant to which a Loan is made by the I-Bank to a Borrower, as such Loan Agreement may be amended, modified or supplemented from time to time in accordance with the provisions thereof and of the Indenture.

**“Loan Closing”** means the date on which an executed Loan Agreement between the I-Bank and a Borrower is delivered pursuant to the Indenture.

**“Loan Origination Fee”** means the Loan Origination Fee charged to a Borrower in connection with obtaining a long-term loan. The amount of the Loan Origination Fee shall be as set forth in the Applicable Loan Agreement.

**“Loan Repayment”** means, with respect to a Loan, the sum of the following amounts, all in accordance with the Applicable Loan Agreement: (i) the payments of the principal amount of the Loan, (ii) in the event of a redemption of the associated Bonds in connection with any prepayment or acceleration of the Loan, the payment of any redemption premium associated with the associated bonds, (iii) the payment of interest on the Loan, (iv) with respect to any prepayment or acceleration, as the case may be, of the principal amount of the Loan, the payment of interest to accrue on such principal amount to the date of redemption or acceleration, (v) the Loan Origination Fee (if applicable), (vi) Administrative Fees, and (vii) any Late Fees.

**“Loan Repayment Date”** means, unless otherwise specified in a Supplemental Indenture, April 1 and October 1 of each year.

**“Loan Servicing Account”** means the Account of that name so designated and established by Article V hereof.

**“Local Government Unit”** has the meaning given such term in clause (3) of the definition of “local government unit” as set forth in the Act, or as may otherwise be set forth in the Act in the future, with respect to Transportation Projects.

**“Mail”, “Mailing” or “Mailed”** refers to the mail delivery service of the United States Postal Service, or any alternative or replacement service for the non-electronic delivery of notices, documents, or other instruments, as the parties hereto may agree.

**“Maximum Annual Debt Service”** means, as of any particular date of calculation and with respect to any Outstanding Bonds, an amount equal to the greatest amount required in the then current or any future Bond Year to pay the Debt Service on such Bonds during such Bond Year; provided, however, that for purposes of this definition:

(i) the Accreted Value of a Capital Appreciation Bond and the Appreciated Value of a Deferred Income Bond becoming due at maturity or through a mandatory Sinking Fund Installment shall be included in the calculations of the interest and Principal Installments payable during the Bond Year in which such Capital Appreciation Bond or Deferred Income Bond matures or in which such Sinking Fund Installment is due;

(ii) the Principal Installments of an Option Bond Outstanding during any Bond Year shall be included only in the years and in the respective Principal Installments due on the dates on which Sinking Fund Installments are due and on the stated maturity date thereof;

(iii) it shall be assumed that a Variable Interest Rate Bond, prior to its conversion to bear interest at a fixed rate to its maturity, bears interest during any Bond Year at the lesser of:

(1) a fixed rate of interest determined in the sole judgment of an Authorized Officer, on a Business Day not more than five (5) days prior to the date of calculation as the fixed rate at which such Variable Interest Rate Bond would have had to bear to be marketed at par on such date as a fixed rate obligation; and

(2) if the I-Bank has in connection with such Variable Interest Rate Bond entered into (A) an Interest Rate Exchange Agreement which provides that the I-Bank is to pay to another person an amount determined based upon a fixed rate of interest on the principal amount of the Outstanding Variable Interest Rate Bonds to which such agreement relates and the Counterparty pays with respect to a like principal amount a variable rate expected to be reasonably equivalent to the variable rate of interest on such Bonds, or (B) a Hedge Agreement in the nature of an interest rate cap or collar, then either the interest fixed rate set forth in or determined in accordance with such Interest Rate Exchange Agreement or the maximum rate set forth in such Hedge Agreement, as applicable; and

(iv) the Principal Installments and Sinking Fund Installments of and interest on Bonds paid or Bonds deemed to be paid as provided in Section 14.01 shall be excluded from such calculation.

**“Maximum Interest Rate”** means, with respect to any particular Variable Interest Rate Bond, the numerical rate of interest, if any, established as the maximum rate at which such Variable Interest Rate Bond may bear interest at any time.

**“Minimum Interest Rate”** shall mean, with respect to any particular Variable Interest Rate Bond, a numerical rate of interest, if any, established as the minimum rate at which such Variable Interest Rate Bond may bear interest at any time.

**“Moody’s”** shall mean Moody’s Investors Service and its successors and assigns; provided, however, that references herein to Moody’s shall be effective so long as Moody’s is a Credit Rating Agency recognized as an NRSRO as defined herein.

**“MSRB”** shall mean the Municipal Securities Rulemaking Board.

**“Municipal Obligation”** means an obligation of any state or territory of the United States of America, any political subdivision of any state or territory of the United States of America, or any agency, authority, public benefit corporation or instrumentality of such state, territory or political subdivision including those of any state of the United States of America, any political subdivision of any state of the United States of America, or any agency, or authority thereof, that at the time of purchase is in one of the two highest long-term rating categories by at least two Rating Agencies, without regard to gradations within the rating

**“Net Earnings”** means, with respect to any Fund, Account or Subaccount, or any portion thereof, all interest, profits and other income earned and received by the Trustee and the I-Bank, as appropriate, in respect of such Fund, Account, Subaccount or portion thereof, net of (i) any losses suffered, (ii) any fees due to the Trustee, the provider of an Investment Security, or, at the written direction of an Authorized Officer of the I-Bank, the financial advisor or investment advisor to the I-Bank in connection with an Investment Security held in such Fund, Account or Subaccount, and (iii) any amounts required to be set aside for the payment of rebate or to satisfy a yield restriction requirement in accordance with the Code, pursuant to any letter of instructions or certificate as to arbitrage.

**“NRSRO”** means a nationally recognized statistical ratings organization registered with and approved by the Securities and Exchange Commission.

**“Officer’s Certificate”** means a certificate signed by an Authorized Officer, as may be required hereunder, in the form attached as Exhibit A hereto, with such changes as are necessary or appropriate from time to time in the sole discretion of such Authorized Officer in connection with delivery of such Officer’s Certificate.

**“Operating Expense Fund”** means the fund of that name established by Article V hereof.

**“Option Bond”** means any Bond which by its terms may be tendered by and at the option of the Holder thereof for purchase or redemption by the I-Bank prior to the stated maturity thereof, or the maturity of which may be extended by and at the option of the Holder thereof.

**“Outstanding”**, when used with reference to Bonds, means, as of any particular date, the aggregate of all Bonds authenticated and delivered under the Indenture, all Parity Repayment Obligations, all Parity Reimbursement Obligations, and all Subordinated Reimbursement Obligations except:



(a) Bonds cancelled by the Trustee or delivered to the Trustee for cancellation at or prior to such date;

(b) Bonds for the payment or redemption of which money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent in trust for the Holders of such Bonds, provided that if such Bonds are to be redeemed, notice of such redemption has been duly given pursuant to the Indenture or provision therefor satisfactory to the Trustee has been made;

(c) Bonds paid or Bonds deemed to be paid as provided in Section 14.01;

(d) Bonds paid or in lieu of or in substitution for which other Bonds shall have been authenticated and delivered pursuant to Section 3.04, unless proof satisfactory to the Trustee shall be presented that any such Bond shall be held by a bona fide purchaser (as such term is defined in the Uniform Commercial Code of the State);

(e) Option Bonds tendered or deemed tendered in accordance with the provisions of the Supplemental Indenture authorizing such Bonds on the applicable adjustment or conversion date, if interest thereon shall have been paid through such applicable date and the purchase price thereof shall have been paid or amounts are available for such payment as provided in the Supplemental Indenture authorizing such Bonds;

(f) Parity Reimbursement Obligations arising out of a Credit Facility or Liquidity Facility if and to the extent that such Parity Reimbursement Obligations are evidenced by Bonds to which the Credit Facility or Liquidity Facility relates and such Bonds are registered in the name of the Provider thereof or its nominee; and

(g) Subordinated Reimbursement Obligations arising out of a Credit Facility or Liquidity Facility if and to the extent that such Subordinated Reimbursement Obligations are evidenced by Subordinated Bonds to which the Credit Facility or Liquidity Facility relates and such Subordinated Bonds are registered in the name of the Provider thereof or its nominee;

provided, however, that in determining whether the Holders of the requisite principal amount of Bonds Outstanding have taken Bondholder Action hereunder, (A) Bonds owned or held by or for the account of the I-Bank shall not be deemed Outstanding and (B) Bonds owned by or for the account of a Borrower shall be disregarded and deemed not to be Outstanding, except that (i) in determining whether the Trustee shall be protected in relying upon any such Bondholder Action, only Bonds which a Responsible Officer of the Trustee knows to be so owned by a Borrower shall be so disregarded, and (ii) Bonds so owned by a Borrower which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right to act with respect to such Bonds and that the pledgee is not a Borrower and that the pledgee is not holding such Bonds for the account of a Borrower.

**“Parity Repayment Obligation”** means an obligation of a Borrower to repay all or any portion of a Loan if and to the extent the I-Bank has designated such Loan or portion thereof as a “Parity I-Bank Loan” pursuant to a Supplemental Indenture or an Officer’s Certificate delivered

based upon delegated authority provided by the I-Bank Board, whether or not such obligation is evidenced by a note, bond or other evidence of indebtedness, but which Parity Repayment Obligation is secured by a security interest in, pledge of and lien on the Trust Estate on a parity with the lien created hereby and by an applicable Supplemental Indenture for the payment of the Senior Bonds.

**“Parity Reimbursement Obligation”** means an obligation of the I-Bank to: (i) reimburse the Provider of a Credit Facility or Liquidity Facility for money advanced thereunder for the payment of the principal, Redemption Price or purchase price of Bonds, including interest on the money so advanced, or (ii) make Hedge Agreement Payments (other than Termination Payments), whether or not such obligation is evidenced by a note, bond or other evidence of indebtedness, but which is secured by a security interest in, pledge of and lien on the Trust Estate on a parity with the lien created hereby and by an applicable Supplemental Indenture for the payment of the Senior Bonds to which such Credit Facility, Liquidity Facility, or Hedge Agreement relates.

**“Paying Agent”** means any paying agent for the Bonds and any successor or successors as paying agent appointed pursuant to Section 11.17.

**“Person”** means an individual, a corporation, a partnership, an association, a joint stock company, a trust, any unincorporated organization or a government or political subdivision thereof.

**“Principal Account”** means the Account of that name established by Section 5.01(a)(vi) in the Debt Service Fund or by Section 5.01(a)(vii) in the Subordinated Debt Service Fund, as applicable.

**“Principal Amount”** means the principal amount of the Loan as specified in the Applicable Loan Agreement.

**“Principal Installment”** means, as of any date of calculation, (i) the principal amount of Bonds due on a future date for which no Sinking Fund Installments have been established, or (ii) the unsatisfied balance of any Sinking Fund Installment due on a future date, or (iii) if such future dates coincide, the sum of such principal amount of Bonds and of such Sinking Fund Installment due on such future date; in each case in the amounts and on the dates as provided in the Indenture.

**“Principal Office”** means, when used with reference to the I-Bank, the Trustee, or the Paying Agent, the respective addresses of such parties as set forth in Section 15.07, and any further or different addresses as such parties may designate pursuant to Section 15.07.

**“Program Borrower”** means a distinct Borrower whose Loan Repayments constitute Revenues hereunder.

**“Project Fund”** means the Fund of that name established by Section 5.01(a)(i) hereof.

**“Project Subaccount”** means a Subaccount within a Series Account within the Project Fund, such Project Subaccount having been established with respect to a specific Borrower and Project.

**“Projected Debt Service Coverage Ratio”** means:

(a) with respect to Section 2.03(g), Section 2.04(a)(ii) and Section 4.01 (regarding the release of Loan Agreements in respect of Senior Bonds), for any future period, the ratio determined by dividing (i) a numerator equal to the projected Revenues (including Revenues projected to be received with respect to Loans whether or not such Loans are financed or refinanced in whole or in part by the Series of Senior Bonds proposed to be issued but excluding moneys and securities in the Cross-Investment Fund and excluding moneys, securities and Reserve Deposits in any Series Reserve Account of the Debt Service Reserve Fund, if any, to the extent such Series Reserve Account secures less than all of the Senior Bonds issued under the Indenture) for the current and each future Bond Year, by (ii) a denominator equal to the Annual Debt Service for the Senior Bonds then Outstanding and secured by the Indenture and the Series of Senior Bonds proposed to be issued, for the current and each future Bond Year in which such Senior Bonds shall be Outstanding; and

(b) with respect to Section 2.03(1), Section 2.04(a)(iii) and Section 4.01 (regarding the release of Loan Agreements in respect of Subordinated Bonds), for any future period, the ratio determined by dividing (i) a numerator equal to the projected Revenues (including Revenues projected to be received with respect to Loans financed or refinanced in whole or in part by the Series of Subordinated Bonds proposed to be issued) to be available for deposit into the Subordinated Debt Service Fund for the current and each future Bond Year inclusive of any Revenues available after the application of Revenues as set forth in Sections 5.06(b)(i)-(v) by (ii) a denominator equal to the Annual Debt Service for the Subordinated Bonds then Outstanding and secured by the Indenture and the Series of Subordinated Bonds proposed to be issued, for the current and each future Bond Year in which such Subordinated Bonds shall be Outstanding.

**“Pro Rata Basis”** means a pro-rated allocation to each Series of Bonds or, as applicable, the Applicable Funds and the Applicable Account and/or Subaccounts therein, calculated based upon payments then due and owing.

**“Provider”** means the provider or issuer of a Credit Facility or a Liquidity Facility, and its successors and assigns.

**“Provider Payments”** means the amount, certified by a Provider to the Trustee, as payable to such Provider on account of amounts advanced by it under a Credit Facility or a Liquidity Facility, including interest on amounts advanced and fees and charges with respect thereto.

**“Qualified Independent Consultant”** means an independent accountant or firm of independent accountants or such other independent consultant or advisory firm of independent consultants which, in any case, shall be of recognized standing and shall have the necessary experience to provide the certificate or other information required by Sections 2.03(g), 2.03(1), 2.04, 4.01, 4.02, and 7.03 hereof, selected by the I-Bank and satisfactory to the Trustee.

**“Rating Confirmation”** means the written confirmation of one Credit Rating Agency which, as of such date, has assigned a rating to the Bonds, to the effect that the rating assigned, without regard to any Credit Facility, to each of the Bonds rated by such Credit Rating Agency,

will remain unchanged and will not be withdrawn, suspended, or reduced as a consequence of some act or occurrence.

**“Rebate Fund”** means the Fund of that name established by Section 5.01(a)(x) hereof.

**“Redemption Fund”** means the Fund of that name established by Section 5.01(a)(ii) hereof.

**“Redemption Price”** means, with respect to any Bond or portion thereof the Outstanding principal amount thereof or of such portion, or such other amount as may be provided in the applicable Supplemental Indenture, plus the premium, if any, payable upon redemption thereof.

**“Record Date”** shall have the meaning ascribed to such term in Section 2.02(a).

**“Refunding Bond”** means any Bond authenticated and delivered on original issuance pursuant to Section 2.04 for the purpose of refunding any Outstanding Bonds, or thereafter authenticated and delivered in lieu of or substitution for such Bond pursuant to the Indenture.

**“Registered Holder”** means the person or persons in whose name or names a particular Bond shall be registered on the Bond Register.

**“Regulations”** means (i) the rules and policies of the I-Bank applicable to Transportation Project Loans, including the then-current rules and policies of the I-Bank, including but not limited to the Financial Plan and any draft or proposed regulations, all as may from time to time be amended and supplemented, except as the same may be superseded by regulations promulgated in the New Jersey Administrative Code that conflict with any such rules and policies, and (ii) the rules and regulations of the I-Bank applicable to Transportation Project Loans as now or hereafter promulgated in the New Jersey Administrative Code, as the same may from time to time be amended and supplemented.

**“Reimbursement Obligations”** shall have the meaning ascribed to that term in Section 2.05(b).

**“Remarketing Agent”** means the person appointed by or pursuant to a Supplemental Indenture authorizing the issuance of Option Bonds to remarket such Option Bonds tendered or deemed to have been tendered for purchase in accordance with such Supplemental Indenture.

**“Reserved Rights”** means the rights of the I-Bank under each Loan Agreement to enforce the remedies therein and to enjoy the benefits of the respective Borrower’s covenants thereunder, including but not limited to the I-Bank’s right, title and interest in and to the Loan Origination Fees, the Administrative Fees and any Late Fees with respect to each respective Loan. The Reserved Rights may be exercised and enforced by the I-Bank whether or not the Trustee shall have exercised or shall have purported to exercise the rights and remedies provided for in the Indenture, without limiting the obligation of the Trustee to exercise the rights and remedies provided for in the Indenture.

**“Reserve Account”** means, as the context requires, either the Common Reserve Account established within the Debt Service Reserve Fund pursuant to Section 5.01(a)(vi) hereof, or any Series Reserve Account that may be established within the Debt Service Reserve Fund pursuant to a Supplemental Indenture, which Series Reserve Account may secure one or more Series of Senior Bonds as set forth in the applicable Supplemental Indenture providing for the issuance of such Series of Senior Bonds.

**“Reserve Deposit” or “Reserve Deposits”**, except as set forth in any Supplemental Indenture, means one or more of the following:

(A) irrevocable, unexpired letters of credit issued by banking institutions the senior long-term debt obligations of which (or of the holding company of such banking institution) have (at the time of issue of such letter of credit), a rating within the two highest rating categories generally available to banking institutions by each Credit Rating Agency rating such debt without regard to any gradations within such categories; or

(B) irrevocable and unconditional policies of insurance in full force and effect issued by municipal bond insurers the obligations insured by which are eligible for a rating at the time of issuance of such policies within the two highest rating categories available to insurers generally issuing such insurance by each Credit Rating Agency rating such insurance without regard to any gradations within such categories;

in each case providing for the payment of sums for the payment of principal of and interest on Bonds in the manner provided under Section 5.09.

**“Reserve Requirement”** means, as applicable,

(a) with regard to Common Reserve Bonds, (i) the amount that is specified in a Supplemental Indenture authorizing the issuance of Common Reserve Bonds, or

(ii) 50% of the amount determined pursuant to (a)(i) above if (1) the number of Program Borrowers is no less than twenty (20) and (2) the I-Bank shall have received either a Rating Confirmation or an indicative rating conclusion, or similar determination, from each Credit Rating Agency then maintaining a rating on Bonds issued and Outstanding hereunder to the effect that, assuming no other significant rating factor changed, the proposed reduction in the Reserve Requirement for Common Reserve Bonds by 50% would likely not result in an adverse change in the then-existing rating on such Bonds; or

(iii) \$0 if (1) the number of Program Borrowers is no less than twenty-five (25) and (2) the I-Bank shall have received either a Rating Confirmation or an indicative rating conclusion, or similar determination, from each Credit Rating Agency then maintaining a rating on Bonds issued and Outstanding hereunder to the effect that, assuming no other significant rating factor changed, the proposed release of all amounts on deposit in the Common Reserve Account within the Debt Service Reserve Fund and the reduction in the Reserve Requirement for Common Reserve Bonds to \$0 would likely not result in an adverse change in the then-existing rating on such Bonds.

(b) with respect to any Series of Senior Bonds that are not Common Reserve Bonds, such amount, if any, as shall be specified in the Supplemental Indenture authorizing the issuance of such Series of Senior Bonds;

provided, however, that in no event shall any Reserve Requirement under clause (a) or (b) exceed an amount permitted by the Code and the regulations thereunder.

**“Responsible Officer”** means any vice president, assistant vice president or corporate trust officer employed in the Corporate Trust Division of the Trustee and authorized to perform any act or execute any document; the designation of such person or persons shall be evidenced by a written Certificate containing the specimen signature of such person or persons reasonably acceptable to the I-Bank.

**“Resolution”** means that certain “RESOLUTION OF THE NEW JERSEY INFRASTRUCTURE BANK (I) AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER INDENTURE OF TRUST WITH RESPECT TO THE TRANSPORTATION INFRASTRUCTURE FINANCING PROGRAM; AND (II) DIRECTING ANY AUTHORIZED OFFICER OF THE NEW JERSEY INFRASTRUCTURE BANK TO TAKE CERTAIN ACTIONS IN ACCORDANCE THEREWITH”, as adopted by the Board on April 14, 2022, and all amendments and supplements thereto adopted in accordance with the provisions thereof.

**“Revenue Fund”** shall mean the Fund of that name established pursuant to Section 5.01(a)(v).

**“Revenues”** means (i) all Loan Repayments that are held by the Trustee, (ii) all proceeds derived from the foregoing, including, without limitation, Net Earnings received by the I-Bank on all amounts held in Funds held hereunder, except Net Earnings on amounts in the Fee Fund, and (iii) provided that the I-Bank receives an opinion of Bond Counsel that, pursuant to the Act, such amounts may be applied for any purpose for which Revenues may be applied pursuant to this Indenture, such other amounts designated by the I-Bank as Revenues pursuant to a Supplemental Indenture; *provided, however*, that Revenues shall not include amounts payable to the I-Bank pursuant to the Loan Agreements to the extent any such amounts are credited as Loan Origination Fees or Administrative Fees pursuant to Section 5.03 hereof.

**“S&P”** means S&P Global Ratings and its successors and assigns; provided, however, that references herein to S&P shall be effective so long as S&P is a Credit Rating Agency recognized as an NRSRO as defined herein.

**“Senior Bond”** or **“Senior Bonds”** means any Bond or Bonds other than any Bond of a Series which in accordance with its term is a Subordinated Bond.

**“Senior Bonds Redemption Account”** means the Account of that name established by Section 5.01(a)(ii) in the Redemption Fund.

**“Series”** or **“Series of Bonds”** means all of the Bonds, notes or other obligations, including a Commercial Paper Program, authenticated and delivered on original issuance pursuant to the

Indenture as a separate Series of Bonds and any Bonds, notes or other obligations thereafter authenticated and delivered in lieu of or in substitution therefor pursuant to the Indenture regardless of variations in maturity, interest rate or other provisions.

**“Series of Senior Bonds”** means all of the Senior Bonds authenticated and delivered on original issuance pursuant to the Indenture as a separate series of Senior Bonds and any Senior Bonds thereafter authenticated and delivered in lieu of or in substitution therefor pursuant to the Indenture regardless of variations in maturity, interest rate, Sinking Fund Installments or other provisions.

**“Series of Subordinated Bonds”** means all of the Subordinated Bonds authenticated and delivered on original issuance pursuant to the Indenture as a separate Series of Subordinated Bonds and any Subordinated Bonds thereafter authenticated and delivered in lieu of or in substitution therefor pursuant to the Indenture regardless of variations in maturity, interest rate, Sinking Fund Installments or other provisions.

**“Series Account”** means the Account of that name established by Section 5.04 in the Project Fund.

**“Series Reserve Account”** means the account of that name established by an applicable Supplemental Indenture in the Debt Service Reserve Fund and securing one or more Series of Senior Bonds that are not Common Reserve Bonds.

**“Sinking Fund Installment”**, when used in connection with any Bond, means, as of any date of calculation, the amount of money required to be paid on a future date for the retirement of a Term Bond that matures after said future date, but does not include any amount payable by the I-Bank by reason only of the maturity of such Term Bond.

**“Standby Purchase Agreement”** means an agreement by and between the I-Bank and another person, pursuant to which such person is obligated to purchase an Option Bond tendered for purchase and not remarketed to another purchaser.

**“State”** means the State of New Jersey.

**“Subaccount”** or **“Subaccounts”** means each of the subaccounts established by Section 5.01 or any Supplemental Indenture.

**“Subordinated Bond”** or **“Subordinated Bonds”** means any Bond or Bonds secured in the manner set forth in Section 5.01(j) or otherwise issued pursuant to the Indenture on terms and conditions that are subordinate in any respect to any other Series of Bonds.

**“Subordinated Bonds Redemption Account”** means the Account of that name established by Section 5.01(a)(ii) in the Redemption Fund.

**“Subordinated Debt Service Fund”** shall mean the Fund of that name established by Section 5.01(a)(vii).

**“Subordinated Reimbursement Obligation”** means an obligation of the I-Bank to: (i) reimburse the Provider of a Credit Facility or Liquidity Facility for money advanced thereunder for the payment of the principal, Redemption Price or purchase price of Subordinated Bonds, including interest on the money so advanced, or (ii) make Hedge Agreement Payments (other than Termination Payments), whether or not such obligation is evidenced by a note, bond or other evidence of indebtedness, but which is secured by a security interest in, pledge of and lien on the Trust Estate on a parity with the lien created hereby and by an applicable Supplemental Indenture for the payment of the Subordinated Bonds to which such Credit Facility, Liquidity Facility, or Hedge Agreement relates.

**“Supplemental Indenture”** means any indenture authorizing the issuance of a Series of Bonds or otherwise supplementary to or amendatory of this Master Indenture now or hereafter duly executed and delivered in accordance with the provisions hereof.

**“Tax Certificate”** means the Tax Certificate as to Arbitrage of the I-Bank dated the date of original issuance of each tax-exempt Series of the Bonds.

**“Tax-Exempt Bonds”** means any Bonds issued and Outstanding hereunder, the interest on which is excluded from gross income of the Holders thereof for federal income tax purposes pursuant to the Code.

**“Tax Requirements”** means those provisions of the Code and regulations of the United States Treasury Department, which are applicable to the Bonds and which must be complied with in order that the interest on the Bonds not be, and continue not to be, includable in the gross income of the Holders thereof for federal income tax purposes.

**“Term Bond”** means a Bond so designated and payable from Sinking Fund Installments.

**“Termination Payment”** means any payment required to be made upon and solely as a consequence of the termination of a Hedge Agreement.

**“Transportation Project” or “Transportation Projects”** shall mean, as the context may require, one or more “transportation projects”, as such term is defined in the Act.

**“Transportation Project Loans”** means loans made by the I-Bank to finance or refinance Transportation Projects.

**“Treasury Inflation-Protected Securities”** means direct obligations of the United States of America whose principal is adjusted for inflation or deflation.

**“Trustee”** means Zions Bancorporation, National Association d/b/a Zions Bank, and its successor or successors and any other corporation which may at any time be substituted in its place pursuant to the Indenture.

**“Trust Estate”** means the property conveyed to the Trustee pursuant to the Granting Clauses hereof.



**“Valuation Date”** means: (i) with respect to any Capital Appreciation Bond, the date or dates set forth in the Supplemental Indenture authorizing such Bond on which specific Accreted Values are assigned to such Capital Appreciation Bond, and (ii) with respect to any Deferred Income Bond, the date or dates prior to the Interest Commencement Date set forth in the Supplemental Indenture authorizing such Bond on which specific Appreciated Values are assigned to such Deferred Income Bond.

**“Variable Interest Rate”** means the rate or rates of interest to be borne by a Bond which is or may be varied from time to time in accordance with the method of determining such interest rate or rates established for such Bond; provided, however, that such variable interest rate may be subject to a Maximum Interest Rate and a Minimum Interest Rate and that there may be an initial rate specified, in each case as provided in such Supplemental Indenture.

**“Variable Interest Rate Bond”** means any Bond that bears a Variable Interest Rate; provided, however, that from and after the date on which the interest rate on such Bond shall have been fixed for the remainder of the term thereof, such Bond shall no longer be a Variable Interest Rate Bond.

**Section 1.02 Rules of Construction.** For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(a) “This Indenture” or “The Indenture” means this instrument as originally adopted and as it may be supplemented, modified or amended from time to time by any Supplemental Indenture, unless in the case of any one or more Supplemental Indentures the context requires otherwise.

(b) All reference in this Indenture to designated “Articles”, “Sections” and other subdivisions are to the designated Articles, Sections and other subdivisions of this Indenture. The words “herein”, “hereof”, “hereunder” and “herewith” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision hereof.

(c) The terms defined in this Indenture include the plural as well as the singular.

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

(e) The table of contents and the headings or captions used in this Indenture are for convenience of reference only and shall not define, limit or prescribe any of the provisions hereof or the scope or intent hereof.

(f) References to any document, agreement, certificate or other instrument shall refer to the provisions of such instrument, as the same may be amended and supplemented from time to time.

(g) Words permitting discretion shall mean that the Person having such discretion may take such action but is not obligated to do so.

**Section 1.03 Indenture and Bonds Constitute a Contract.** With respect to the Bonds, in consideration of the purchase and acceptance of any and all of the Bonds authorized to be issued pursuant to this Indenture by those who shall hold the same from time to time, this Indenture shall be deemed to be and shall constitute a contract among the I-Bank, the Trustee and the Holders, from time to time, of such Bonds. The pledge made hereby is valid and binding from the time when the pledge is made and the Trust Estate shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the I-Bank irrespective of whether such parties have notice thereof. Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or give or grant to, any person or entity, other than the I-Bank, the Trustee, the Paying Agent and the registered owners of the Bonds, any right, remedy or claim under or by reason of this Indenture or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Indenture contained by and on behalf of the I-Bank shall be for the sole and exclusive benefit of the I-Bank, the Trustee, the Paying Agent and the registered owners of the Bonds.

**ARTICLE II.**  
**AUTHORIZATION AND ISSUANCE OF BONDS**

**Section 2.01 Authorization of Bonds.** There is hereby authorized one or more Series of Bonds of the I-Bank, to be designated in such manner as determined by the I-Bank, which Bonds may be issued as hereinafter provided from time to time. Bonds may be issued in accordance with this Section for the purpose of: (i) making Loans to finance or refinance all or a portion of the Cost of any Transportation Project, (ii) the making of deposits in all Funds and Accounts established hereunder, (iii) the payment of Costs of Issuance, (iv) the payment of capitalized interest, if any, (v) refunding all or a portion of any prior Series of Bonds, or (vi) any combination of the foregoing. The Bonds may, if and when authorized by the I-Bank pursuant to one or more Supplemental Indentures, be issued in one or more Series, and within a Series, in one or more subseries or lots, and the designation thereof may include such further appropriate designations added to or incorporated in such title for the Bonds of any particular Series, subseries or lots as the I-Bank may determine. The aggregate principal amount of the Bonds which may be executed, authenticated and delivered under the Indenture is not limited except as may be limited by law.

Nothing contained herein shall be deemed to preclude or restrict the consolidation pursuant to a Supplemental Indenture of any Bonds of any two or more separate Series authorized pursuant hereto and pursuant to any such Supplemental Indenture into a single Series of Bonds for purposes of sale and issuance; provided, however, that each of the tests, conditions and other requirements contained in this Article II as applicable to each such separate Series shall be met and complied with. Except as otherwise provided in this Section or in such Supplemental Indenture, such a consolidated Series shall be treated as a single Series of Bonds for all purposes hereof.

Neither the State of New Jersey nor any political subdivision thereof, other than the I-Bank, but solely to the extent of the Trust Estate, is obligated to pay the principal or Redemption Price of, or interest on, the Bonds, and neither the faith and credit nor the taxing power of the State, or any political subdivision thereof, is pledged to the payment of the principal or Redemption Price of, or interest on, the Bonds.

**Section 2.02 General Provisions for Issuance of Bonds.** The I-Bank may issue hereunder at one time or from time to time a Series of Bonds by means of a Supplemental Indenture upon compliance with the requirements, if any, set forth in such Supplemental Indenture and with the requirements of this Article II. The Supplemental Indenture authorizing the issuance of each Series of Bonds shall specify:

(a) The: (i) authorized principal amount, designation, manner of numbering and letters and Series of such Bonds; (ii) dated date, maturity dates, the principal amounts of each maturity and the Interest Payment Dates of the Bonds of such Series and the regular record dates relating thereto (which record dates shall be the fifteenth (15<sup>th</sup>) day of the month immediately preceding each Interest Payment Date unless otherwise provided in the Supplemental Indenture (the "Record Date")); (iii) the Redemption Price(s) and the time or times and other terms of redemption, if any, of such Series of Bonds; (iv) the amount and date of each Sinking Fund Installment, if any, required to be paid for the retirement of any Term Bonds; (v) the minimum denomination applicable to such

Series of Bonds; and (vi) whether any Bonds of such Series are to be issued as Book-Entry Bonds and the Depository thereof;

(b) Except in the case of Capital Appreciation Bonds and Deferred Income Bonds prior to the Interest Commencement Date, the interest rate or rates, if any, of the Bonds of such Series, or the manner of determining such rate or rates and, with respect to Variable Interest Rate Bonds, the date on which the interest rate shall be adjusted and the date or dates on which interest on such Variable Interest Rate Bonds shall be paid, or the manner of determining the same, and the manner in which interest is to be paid on such Variable Interest Rate Bonds;

(c) If Bonds of such Series are Capital Appreciation Bonds, the Valuation Dates for such Bonds and the Accreted Value on each such Valuation Date;

(d) If Bonds of such Series are Deferred Income Bonds, the Interest Commencement Date for such Bonds, the Valuation Date or Dates prior to the Interest Commencement Date for such Bonds and the Appreciated Value on each such Valuation Date;

(e) The Maximum Interest Rate or Rates or Minimum Interest Rate or Rates, if any, in connection with any Variable Interest Rate Bonds or Option Bonds of such Series;

(f) If Bonds of such Series are Option Bonds, provisions regarding the tender for purchase or redemption thereof: payment of the purchase or Redemption Price thereof and the appointment of a Remarketing Agent with respect thereto;

(g) The purposes for which the Bonds of such Series are being issued and the manner in which the proceeds, if any, of such Bonds are to be applied, including the amounts to be deposited in the Funds and Accounts created and established by the Indenture;

(h) The form or forms of the Bonds of such Series and the form of the Trustee's certificate of authentication thereon;

(i) The designation as to whether Senior Bonds of such Series shall: (i) constitute Common Reserve Bonds secured by the Common Reserve Account, (ii) be secured by the applicable Series Reserve Account, or (iii) not be secured by any Reserve Account;

(j) The Reserve Requirement, if any, applicable to the Senior Bonds of such Series and the deposit of such amount in either the Common Reserve Account or the Series Reserve Account, as applicable;

(k) If the Series of Bonds consists of a Commercial Paper Program, the maximum amount of Commercial Paper that is authorized to be issued and outstanding at any time under such Commercial Paper Program;

(l) If applicable, such covenants, elections or determinations as are deemed necessary or appropriate to assure the tax exemption of interest on the Bonds;

(m) If a Credit Facility or Liquidity Facility is to be provided in connection with the issuance of the Bonds of such Series, such Credit Facility or Liquidity Facility; and

(n) Any other provisions deemed advisable by the I-Bank not in conflict with this Master Indenture.

**Section 2.03 Issuance of Bonds.** The Bonds shall be executed by an Authorized Officer of the I-Bank and delivered to the Trustee for authentication and thereupon the Bonds shall be authenticated by a Responsible Officer of the Trustee and shall be delivered to or upon the written order of an Authorized Officer described in subsection (f) below, but only upon the receipt by the Trustee of the proceeds (including accrued interest) of the sale of the Bonds, of which certain amounts will be deposited in accordance with such written order. Prior to, or simultaneously with, the authentication and delivery of the Bonds, the Trustee shall also receive the following:

(a) A copy of the resolutions adopted by the I-Bank authorizing the execution and delivery of the Applicable Supplemental Indenture, and the applicable Loan Agreements and the issuance, sale, execution and delivery of the Bonds, certified by an Authorized Officer of the I-Bank to have been duly adopted by the I-Bank and to be in full force and effect on the date of such certification;

(b) An original executed counterpart or a copy of the applicable Loan Agreements, Borrower Tax Certificates and the Applicable Supplemental Indenture;

(c) A copy of an opinion of nationally recognized bond counsel to each Borrower to the effect that the Borrower Bonds issued by such Borrower delivered pursuant to the applicable Loan Agreement have been duly authorized, executed and delivered and issued, together with a letter to the effect that the Trustee may rely on such opinion as if it were addressed to it;

(d) An opinion of Bond Counsel to the effect that the Bonds have been duly authorized and that all conditions precedent to the issuance thereof have been fulfilled, together with a letter to the effect that the Trustee may rely on such opinion as if it were addressed to it;

(e) A written order and authorization to the Trustee on behalf of the I-Bank, signed by an Authorized Officer, directing the Trustee to authenticate and deliver the Bonds to or upon the order of the purchaser or purchasers therein identified upon payment to the Trustee of the purchase price (including accrued interest, if any) of the Bonds;

(f) If not otherwise provided in the Applicable Supplemental Indenture, an Officer's Certificate:

(i) stating the name of each Borrower to which a Loan is to be made;

(ii) stating, with respect to each Borrower and each Borrower's Project, (a) the amount of the Loan to such Borrower for such Borrower's Project, (b) the amount thereof, if any, constituting Borrower Capitalized Interest with respect to such Borrower's Project, (c) the amount thereof, if any, to be deposited in the Interest Subsidy Subaccount and (d) the amount thereof, if any, to be applied to refinance such Borrower's Project;

(iii) designating the Funds and Accounts into which the proceeds of the Bonds or other available moneys shall be deposited;

(iv) stating the amount of moneys or Reserve Deposits in a stated amount such that following the issuance of such Series of Bonds and application of the proceeds thereof, the amounts on deposit in and the aggregate stated and unpaid amount of all Reserve Deposits held as part of the Debt Service Reserve Fund shall equal the Reserve Requirement, if any; provided, however, that the applicable Supplemental Indenture may provide that the Reserve Requirement, if any, attributable to any Series of Bonds may be funded in substantially equal installments over a period of time after issuance as specified in the applicable Supplemental Indenture (which period shall not exceed twenty-four (24) months);

(v) in the case of any Series of Bonds for which Capitalized Interest will be provided, directing the Trustee to: (i) establish the Capitalized Interest Subaccount for such Series in the Series Specific Interest Subaccount of the Interest Account of the Debt Service Fund and (ii) deposit the applicable amount of the proceeds of such Series therein;

(g) Except in the case of the Initial Bonds, Subordinated Bonds and in the case of Refunding Bonds issued pursuant to Section 2.04, a Certificate of a Qualified Independent Consultant stating that the Projected Debt Service Coverage Ratio for each subsequent Bond Year is not less than 1.20:1.00 taking into account all Senior Bonds then Outstanding and secured by the Indenture and the Series of Senior Bonds proposed to be issued;

(h) Except in the case of the Initial Bonds, an Officer's Certificate stating that the I-Bank is not in default in the performance of any of the covenants, conditions, agreements or provisions of this Master Indenture;

(i) Except in the case of the Initial Bonds, an Officer's Certificate stating that the Bonds then have, and, after giving effect to the Series of Bonds being issued, will have a rating designated as investment grade by each Credit Rating Agency that, as of such date, has assigned a rating to the Bonds;

(j) The Officer's Certificates contemplated by Section 5.01(d) if any;

(k) Such further documents and moneys as are required by the provisions of Article XIII or any Supplemental Indenture adopted pursuant to Article XIII; and

(l) In the case of any Series of Subordinated Bonds, a Certificate of a Qualified Independent Consultant showing that the Projected Debt Service Coverage Ratio for each

subsequent Bond Year is not less than the ratio set forth in the Applicable Supplemental Indenture, taking into account all Subordinated Bonds then Outstanding and secured by the Indenture and the Series of Subordinated Bonds proposed to be issued.

#### **Section 2.04 Issuance of Refunding Bonds.**

(a) One or more Series of Refunding Bonds may be issued pursuant to this Section 2.04 at any time to refund any Outstanding Bonds, provided that either: (i) the Debt Service on such Series of Refunding Bonds in each Bond Year in which such Series of Refunding Bonds will be Outstanding shall not exceed the Debt Service on the Bonds to be refunded in each Bond Year in which such Series of Bonds otherwise would be Outstanding but for the issuance of such Series of Refunding Bonds, as shown in a certificate of a Qualified Independent Consultant delivered to the Trustee prior to the authentication and delivery of such Series of Refunding Bonds; or (ii) if such Series of Refunding Bonds are issued as Senior Bonds, (x) the Projected Debt Service Coverage Ratio for each subsequent Bond Year is not less than 1.20:1.00 taking into account (1) all Senior Bonds then Outstanding and secured by the Indenture (other than the Series of Bonds to be refunded) and (2) the Series of Refunding Bonds proposed to be issued or (y) would be no less, taking into account all Senior Bonds then Outstanding and secured by the Indenture and the Series of Senior Bonds proposed to be issued, than the Projected Debt Service Coverage Ratio for each subsequent Bond Year if no additional Series of Senior Bonds were issued; or (iii) if such Series of Refunding Bonds are issued as Subordinated Bonds, the Projected Debt Service Coverage Ratio for each subsequent Bond Year is not less than the ratio set forth in the Applicable Supplemental Indenture, taking into account all Subordinated Bonds then Outstanding and secured by the Indenture and the Series of Refunding Subordinated Bonds proposed to be issued; in each case as shown in a certificate of a Qualified Independent Consultant delivered to the Trustee prior to the authentication and delivery of such Series of Refunding Bonds. Refunding Bonds shall be issued in a principal amount sufficient, together with other moneys available therefor, to accomplish such refunding and to make the deposits in the Funds and Accounts required by the provisions of the Supplemental Indenture authorizing such Refunding Bonds.

(b) All Refunding Bonds of a Series issued under this Section 2.04 shall be executed by an Authorized Officer of the I-Bank and delivered to the Trustee and thereupon shall be authenticated by the Trustee and delivered to the I-Bank or upon its order, but only upon the receipt by the Trustee (in addition to the documents required by Section 2.03(a), (b), (c), (d), (e), (f), (h), (i) and (j) and subsection (a) of this Section 2.04) of:

(i) irrevocable instructions to the Trustee, satisfactory to it, to give due notice of redemption of all the Bonds to be redeemed on a redemption date or dates specified in such instructions;

(ii) if the Bonds to be refunded are not to be redeemed within the next succeeding sixty (60) days, irrevocable instructions to the Trustee, satisfactory to it, to give due notice of any refunding of such Bonds on a specified date prior to their maturity, as provided in Article VIII and Section 14.01;

(iii) Either (A) moneys (which may include all or a portion of the proceeds of the Refunding Bonds to be issued) in an amount sufficient to effect payment of the principal amount and the applicable Redemption Price, if any, of the Bonds to be refunded, together with accrued interest on such Bonds to the maturity or redemption date thereof, as the case may be, or (B) Defeasance Securities (which may be purchased with all or a portion of the proceeds of the Refunding Bonds to be issued) in such principal amounts, of such maturities, bearing such interest and otherwise having such terms and qualifications and any moneys, as shall be necessary to comply with the provisions of Section 14.01, which Defeasance Securities and moneys shall be held in trust and used only as provided in Section 14.01; and

(iv) such further documents and moneys as are required by the provisions of Article XIII or the applicable Supplemental Indenture.

**Section 2.05 Parity Reimbursement Obligations; Subordinated Reimbursement Obligations.**

(a) In connection with a Series of Bonds, the I-Bank may obtain or cause to be obtained one or more Credit Facilities, Liquidity Facilities or Hedge Agreements. In connection therewith, the I-Bank may enter into such agreements with the Provider of such Credit Facility or Liquidity Facility or the Counterparty to a Hedge Agreement providing for, *inter alia*: (i) the payment of fees and expenses to such Provider or Counterparty; (ii) the terms and conditions of such Credit Facility, Liquidity Facility or Hedge Agreement; (iii) the Series of Bonds to which it relates; and (iv) the security, if any, for the I-Bank's obligations thereunder.

(b) The I-Bank may, in an agreement with the Provider of such Credit Facility or Liquidity Facility or the Counterparty to a Hedge Agreement, agree to directly reimburse the Provider for amounts paid by it pursuant to the Credit Facility or Liquidity Facility, together with interest thereon, or to make Hedge Agreement Payments to the Counterparty (collectively, the "Reimbursement Obligation"); provided, however, that no Reimbursement Obligation under a Credit Facility or Liquidity Facility shall be created, for purposes of this Master Indenture, until amounts are paid under the Credit Facility or Liquidity Facility. Any Reimbursement Obligation may be (i) a Parity Reimbursement Obligation, except that, in the case of a Hedge Agreement, only the obligation to make Hedge Agreement Payments, but not Termination Payments, may be secured by a lien on the Trust Estate that is on a parity with the lien created hereby, or (ii) a Subordinated Reimbursement Obligation. A Parity Reimbursement Obligation shall be deemed to be part of the Series of Senior Bonds to which the Credit Facility, Liquidity Facility or Hedge Agreement which gave rise to such Parity Reimbursement Obligation relates. A Subordinated Reimbursement Obligation shall be deemed to be part of the Series of Subordinated Bonds to which the Credit Facility, Liquidity Facility or Hedge Agreement which gave rise to such Subordinated Reimbursement Obligation relates.



**Section 2.06 Certain Provisions Relating to Capital Appreciation Bonds and Deferred Income Bonds.**

(a) For the purposes of: (i) receiving payment of the Redemption Price if a Capital Appreciation Bond is redeemed prior to maturity or (ii) computing the principal amount of Bonds held by the Registered Holder of a Capital Appreciation Bond in giving to the I-Bank or the Trustee any notice, consent, request, or demand pursuant hereto for any purpose whatsoever, the Accreted Value of such Bond as at the immediately preceding Valuation Date shall be deemed to be its principal amount. Notwithstanding any other provision hereof, the amount payable at any time with respect to the principal of and interest on any Capital Appreciation Bond shall not exceed the Accreted Value thereof at such time. For purposes of receiving payment of the Redemption Price or principal of a Capital Appreciation Bond called for redemption prior to maturity, the difference between the Accreted Value of such Bond when the Redemption Price or principal thereof is due upon such redemption or declaration and the principal of such Bond on the date the Bonds of the Series of which it is a part were first issued shall be deemed not to be accrued and unpaid interest thereon.

(b) For the purposes of: (i) receiving payment of the Redemption Price if a Deferred Income Bond is redeemed or (ii) computing the principal amount of Bonds held by the Registered Holder of a Deferred Income Bond in giving to the I-Bank or the Trustee any notice, consent, request, or demand pursuant hereto for any purpose whatsoever, the Appreciated Value of such Bond as at the immediately preceding Valuation Date shall be deemed to be its principal amount. Notwithstanding any other provision hereof, the amount payable at any time prior to the Interest Commencement Date with respect to the principal of and interest on any Deferred Income Bond shall not exceed the Appreciated Value thereof at such time. For purposes of receiving payment prior to the Interest Commencement Date of the Redemption Price or principal of a Deferred Income Bond called for redemption prior to maturity, the difference between the Appreciated Value of such Bond when the Redemption Price or principal thereof is due upon such redemption or declaration and the principal of such Bond on the date the Bonds were first issued shall be deemed not to be accrued and unpaid interest thereon.

**ARTICLE III.**

**GENERAL TERMS AND CONDITIONS OF BONDS; SECURITY FOR BONDS**

**Section 3.01 Place and Medium of Payment; Form and Date.**

The Bonds of each Series shall be issued in the form of fully-registered bonds without coupons in the denomination or denominations specified in the applicable Supplemental Indenture not exceeding the aggregate principal amount of such Series of Bonds. The Bonds shall be payable, with respect to interest, principal and Redemption Price, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Upon presentation and surrender of Bonds the principal and Redemption Price of such Bonds shall be payable at the Principal Office of the Trustee. Interest on the Bonds shall be paid by check or draft of the Trustee mailed to such Registered Owner who shall appear as of the fifteenth (15th) day (whether or not such day shall be a Business Day) of the month immediately

preceding such interest payment date on the books of the I-Bank maintained by the Trustee. However, so long as the Bonds are held in book-entry-only form pursuant to Section 3.13 hereof, such provisions governing such book-entry-only form shall govern repayment of the principal or Redemption Price, if any, of and interest on the Bonds.

(a) Bonds of each Series issued prior to the first Interest Payment Date thereof shall be dated as of the date specified in the Supplemental Indenture authorizing the issuance thereof. Bonds of each Series issued on or subsequent to the first Interest Payment Date thereof shall be dated as of the Interest Payment Date immediately preceding the date of authentication thereof by the Trustee, unless such date of authentication shall be an Interest Payment Date, in which case they shall be dated as of such date of authentication; provided, however, that if, as shown by the records of the Trustee, interest on the Bonds of any Series shall be in default, Bonds of such Series issued in lieu of Bonds surrendered for transfer or exchange may be dated as of the date to which interest has been paid in full on the Bonds surrendered. Unless otherwise provided in the Supplemental Indenture authorizing the issuance thereof, Bonds of each Series shall bear interest from their dated date.

(b) Any Subordinated Bonds issued pursuant to this Master Indenture shall, in addition to or in lieu of the provisions established therefore herein, be subject to the provisions of, and shall have the terms set forth in, the Supplemental Indenture authorizing such Subordinated Bonds; provided, however, that in no event shall any Subordinated Bond be secured in a manner or payable on a priority that is the same as or senior to any Senior Bond.

**Section 3.02 Legends.** The Bonds of each Series may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of this Master Indenture as may be necessary or desirable to comply with custom, the rules of any securities exchange, commission or board or brokerage board, the Act, or otherwise, as may be determined by an Authorized Officer of the I-Bank prior to the authentication and delivery thereof.

**Section 3.03 Pledge and Assignment Effected by Indenture; Bonds of Same Priority of Lien Equally and Ratably Secured; Option of I-Bank to Assign Certain Further Rights and Remedies to Trustee.**

(a) The I-Bank, to secure the payment of the principal and Redemption Price of, and interest on, the Bonds and performance and observance of all of the covenants and conditions contained in the Indenture, has by the Granting Clause hereof, conveyed, granted, assigned, transferred, pledged, and confirmed and granted a security interest in and does hereby convey, grant, assign, transfer, pledge, and confirm and grant a security interest in, unto the Trustee, its successor or successors and its or their assigns forever, the Trust Estate, all in accordance with the provisions hereof. For the avoidance of doubt, the Cross-Investment Fund is not pledged to the payment of Outstanding Bonds hereunder; the application of monies on deposit in the Cross-Investment Fund shall be governed by Section 5.11 hereof.

(b) The pledge made hereby is valid and binding from the time when the pledge is made and the Trust Estate shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding as

against all parties having claims of any kind in tort, contract or otherwise against the I-Bank irrespective of whether such parties have notice thereof. Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or give or grant to, any person or entity, other than the I-Bank, the Trustee, the Paying Agent and the registered owners of the Bonds, any right, remedy or claim under or by reason of this Indenture or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Indenture contained by and on behalf of the I-Bank shall be for the sole and exclusive benefit of the I-Bank, the Trustee, the Paying Agent and the registered owners of the Bonds.

(c) (1) All Senior Bonds issued and to be issued under the Indenture are, and are to be, to the extent provided in the Indenture, equally and ratably secured by the Indenture without preference, priority or distinction on account of the actual time or times of the authentication or delivery or maturity or redemption of the Senior Bonds or any of them, so that, subject to the provisions of Section 9.06, all Senior Bonds at any time Outstanding hereunder shall have the same right, lien and preference under and by virtue of the Indenture and shall all be equally and ratably secured hereby with like effect as if they had all been executed, authenticated and delivered simultaneously on the date hereof. The aggregate principal amount of Senior Bonds which may be executed and delivered by the I-Bank and authenticated by the Trustee and secured by the Indenture is not limited except as is or may hereafter be provided in the Indenture or as may be limited by law.

(2) All Subordinated Bonds issued and to be issued under the Indenture are, and are to be, to the extent provided in the Indenture, secured in accordance with Section 5.01(j) and the liability of the I-Bank thereto shall be enforceable only to the extent provided therein; in all events, however, the liability of the I-Bank under the Subordinated Bonds shall be subordinate to the liability of the I-Bank under the Senior Bonds. The aggregate principal amount of Subordinated Bonds which may be executed and delivered by the I-Bank and authenticated by the Trustee and secured by the Indenture is not limited except as is or may hereafter be provided in the Indenture or as may be limited by law. Funds on deposit in the Debt Service Reserve Fund shall be excluded from the Trust Estate pledged for the benefit of such Subordinated Bonds and shall not be applied to the payment of principal or Redemption Price of, or interest on, such Subordinated Bonds. The Supplemental Indenture with respect to any Subordinated Bonds may establish separate reserves for the benefit of such Subordinated Bonds (which are specifically excluded from the Trust Estate pledged for the benefit of the Senior Bonds), shall specify the terms and conditions applicable to such Subordinated Bonds, and shall make such amendments to this Master Indenture as are certified by an Authorized Officer to be necessary to effect the subordination of payments with respect to such Subordinated Bonds to payments due on the Senior Bonds.

(d) All Bonds of a particular Series or subseries shall in all respects be equally and ratably secured and shall have the same right, lien and preference hereunder established for the benefit of such Series or subseries of Bonds; provided that nothing herein shall be construed to preclude the creation or application of separate Loan Agreements, Credit Facilities, Hedge Agreements, Liquidity Facilities, Reserve Accounts or Reserve Deposits for any Series or subseries of Bonds, which may or may not be pledged toward the payment or application of other Series or subseries of Bonds.

**Section 3.04 Mutilated, Lost, Stolen or Destroyed Bonds.** In case any Bond shall become mutilated or be destroyed, lost or stolen, the I-Bank in its discretion may execute, and upon its request the Trustee shall authenticate and deliver, a new Bond of like Series form, maturity and principal amount, and bearing interest at the same rate, as the Bond so mutilated, destroyed, lost or stolen, in exchange and substitution for the mutilated, destroyed, lost or stolen Bond, upon surrender and cancellation of such mutilated Bond or in lieu of and substitution for such Bond so destroyed, lost or stolen, upon filing with the I-Bank evidence satisfactory to the I-Bank and the Trustee that such Bond has been destroyed, lost or stolen and proof of ownership thereof, and upon furnishing the I-Bank and the Trustee with indemnity satisfactory to them and complying with such other reasonable regulations as the I-Bank and the Trustee may prescribe and paying such expenses as the I-Bank and the Trustee may incur in connection therewith. All Bonds so surrendered to the Trustee shall be cancelled by it and evidence of such cancellation shall be given to the I-Bank. In case any Bond which has matured or is about to mature shall have become mutilated or have been destroyed, lost or stolen, the I-Bank may, instead of issuing a Bond in exchange or substitution therefor, pay or authorize the payment of such mutilated Bond upon the surrender on or after the maturity date thereof, or authorize the payment of such destroyed, lost or stolen Bond, upon the Holder thereof filing evidence satisfactory to the I-Bank and the Trustee that such Bond has been destroyed, lost or stolen and proof of ownership thereof, and upon furnishing the I-Bank and the Trustee with indemnity satisfactory to them and complying with such other reasonable regulations as the I-Bank and the Trustee may prescribe and paying such expenses as the I-Bank and the Trustee may instruct in connection therewith.

**Section 3.05 Temporary Bonds.** Until Bonds in definitive form are ready for delivery, the I-Bank may execute, and upon the I-Bank's request in writing, the Trustee shall authenticate and deliver in lieu thereof, and subject to the same provisions, limitations, and conditions, one or more printed, lithographed or typewritten Bonds of such series in temporary form, substantially of the tenor of the Bonds hereinbefore described and with appropriate omissions, variations and insertions. Bonds in temporary form will be for such principal amounts as the I-Bank shall determine. Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the security and benefit of the Indenture. The I-Bank shall, without unreasonable delay, prepare, execute and deliver to the Trustee, and thereupon, upon the presentation and surrender of the Bond or Bonds in temporary form to the Trustee at the Corporate Trust Office, the Trustee shall authenticate and deliver, in exchange therefor, a Bond or Bonds of the same form and maturity, in definitive form in the authorized denomination, and for the same principal amount and bearing interest at the same rate, as the Bond or Bonds in temporary form surrendered. Such exchange shall be made without making any charge therefor.

**Section 3.06 Execution of Bonds; Effect of Change of Officers.**

(a) The Bonds shall be executed in the name of the I-Bank by the manual or facsimile signature of the Chairperson or other Authorized Officer of the I-Bank, and its corporate seal (or a facsimile thereof) shall be impressed, imprinted, engraved or otherwise reproduced thereon and attested by the manual or facsimile signature of the Secretary or Assistant Secretary or other Authorized Officer of the I-Bank, or in such other manner as may be required or permitted by law. In case any one or more of the Authorized Officers of the I-Bank who shall have signed or sealed any of the Bonds shall cease to be such officer before the Bonds so signed and sealed shall have

been authenticated and delivered by the Trustee, such Bonds may, nevertheless, be authenticated and delivered as herein provided, and may be issued as if the persons who signed or sealed such Bonds had not ceased to hold such offices. Any Bond of a Series may be signed and sealed on behalf of the I-Bank by such persons who at the time of the execution of such Bonds shall be duly authorized or shall hold the proper office in the I-Bank, although at the date borne by the Bonds of such Series such persons may not have been so authorized or have held such office.

(b) The Bonds of each Series shall bear thereon a certificate of authentication, in the form set forth in this Indenture or in the Supplemental Indenture authorizing such Series of Bonds, executed manually by the Trustee. Only such Bonds as shall bear thereon such certificate of authentication shall be entitled to any right or benefit pursuant to this Indenture, and no Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Trustee. Such certificate of the Trustee upon any Bond executed on behalf of the I-Bank shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered pursuant to this Indenture and that the Holder thereof is entitled to the benefits of this Indenture.

### **Section 3.07 Registration of Bonds; Transfers.**

(a) All the Bonds issued under the Indenture shall be negotiable, subject to the provisions for registration and transfer contained in the Indenture and in the Bonds. The Trustee shall be the bond registrar, and shall maintain and keep at the Corporate Trust Office the Bond Register for the registration and transfer of Bonds. Upon presentation thereof for such purpose at either said office, the Trustee shall register or cause to be registered therein, and permit to be transferred thereon, under such reasonable regulations as it may prescribe, any Bond.

(b) Each Bond shall be transferable only upon the Bond Register at the Corporate Trust Office at the written request of the Holder thereof or its representative duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Trustee duly executed by the Holder or its representative duly authorized in writing. Upon the transfer of any Bond, the I-Bank shall issue in the name of the transferee, in authorized denominations, one or more Bonds of the same aggregate principal amount, form and maturity, and bearing interest at the same rate as the surrendered Bonds.

**Section 3.08 Persons Treated as Holders.** The I-Bank, the Trustee, and any Paying Agent may, for all purposes, deem and treat the Holder of any Bond as the absolute Holder of such Bond, whether or not such Bond is overdue, and neither the I-Bank nor the Trustee nor any Paying Agent shall be affected by any notice to the contrary.

Payment made to the Holder of any Bond for such purpose in accordance with the provisions of this Section 3.08 shall be valid and effectual, to the extent of the sum or sums so paid, to satisfy and discharge the liability upon such Bond in respect of which such payment was made.

**Section 3.09 Exchange of Bonds.** So long as any of the Bonds remain Outstanding, the I-Bank shall make all necessary provisions to permit the exchange of Bonds at the Corporate Trust Office. Bonds, upon surrender thereof at the Corporate Trust Office with a written instrument of

transfer satisfactory to the Trustee duly executed by the Holder or its representative duly authorized in writing may, at the option of the Holder thereof, be exchanged for an equal aggregate principal amount of Bonds of the same maturity and interest rate and of any other authorized denominations.

**Section 3.10 Payment for and Limitations on Exchanges and Transfers.** In all cases in which the privilege of exchanging or transferring the Bonds is exercised, the I-Bank shall execute and the Trustee shall authenticate and deliver Bonds in accordance with the provisions hereof. The Bonds in changed denominations shall be exchanged for the surrendered Bonds in such manner that no overlapping interest is paid and no interest is lost, and such Bonds in changed denominations shall be of the same Series, bear interest at the same rate or rates and mature on the same date or dates as the Bonds for which they are exchanged. All Bonds surrendered in any such exchanges or transfers shall forthwith be surrendered to the Trustee for cancellation and cancelled by the Trustee. For every such exchange or transfer of Bonds, the Trustee may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer. Notwithstanding any other provisions hereof, the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the I-Bank or the Trustee incurred in connection therewith, shall be paid by the person requesting such exchange or transfer. The I-Bank shall not be obliged to make, or cause to be made, any exchange or transfer of Bonds of any Series, other than the exchange or transfer of an Option Bond which has been tendered or deemed to have been tendered by the Holder thereof for purchase, during the period beginning on the Record Date for such Bonds next preceding an Interest Payment Date on such Bonds and ending on such Interest Payment Date, or, in the case of any proposed redemption of Bonds of such Series, after the date next preceding the date of the selection of Bonds to be redeemed.

**Section 3.11 Cancellation of Bonds.** Upon the surrender to the Trustee of any temporary or mutilated Bonds, or Bonds transferred or exchanged for other Bonds, or Bonds acquired, redeemed or received by the Trustee as a credit to reduce any Sinking Fund Installment, or paid at maturity, or otherwise delivered to the Trustee for cancellation, or Bonds purchased by the Trustee pursuant to Section 8.05, the same shall forthwith be cancelled and may be destroyed by the Trustee in such manner as it deems appropriate and the Trustee shall, if such Bonds are so destroyed, deliver its certificate as to such disposition to the I-Bank. Notwithstanding the foregoing, Bonds purchased in lieu of redemption pursuant to Section 8.05 shall not be cancelled and destroyed unless the Trustee shall receive written instructions from an Authorized Officer of the I-Bank to do so.

**Section 3.12 Book-Entry Bonds.** Anything herein to the contrary notwithstanding, Bonds may be authorized and issued as Book-Entry Bonds in accordance with the Supplemental Indenture authorizing such Bonds.

For all purposes of the Indenture, the Holder of a Book-Entry Bond shall be the Depository therefor and neither the I-Bank nor the Trustee shall have responsibility or any obligation to the beneficial Holder of such Bond or to any direct or indirect participant in such Depository. Without limiting the generality of the foregoing, neither the I-Bank nor the Trustee shall have any responsibility or obligation to any such participant or to the beneficial Holder of a Book-Entry Bond with respect to: (i) the accuracy of the records of the Depository or any participant with respect to any beneficial ownership interest in such Bond, (ii) the delivery to any participant of the

Depository, the beneficial Holder of such Bond or any other person, other than the Depository, of any notice with respect to such Bond, including any notice of the redemption thereof, or (iii) the payment to any participant of the Depository, the beneficial Holder of such Bond or any other person, other than the Depository, of any amount with respect to the principal or Redemption Price of, or interest on, such Bond. The I-Bank and the Trustee may treat the Depository therefor as the absolute Holder of a Book Entry Bond for the purpose of (x) payment of the principal and Redemption Price of, and interest on, such Bond, (y) giving notices of redemption and of other matters with respect to such Bond, (z) registering transfers with respect to such Bond, and for all other purposes whatsoever. The Trustee shall pay all principal and Redemption Price of, and interest on, such Bond only to or upon the order of the Depository, and all such payments shall be valid and effective to fully satisfy and discharge the I-Bank's obligations with respect to such principal, Redemption Price and interest to the extent of the sum or sums so paid. No person other than the Depository shall receive a Bond or other instrument evidencing the I-Bank's obligation to make payments of the principal and Redemption Price thereof and interest thereon.

Anything herein to the contrary notwithstanding, payment of the Redemption Price of a Book-Entry Bond which is redeemed in part prior to maturity may be paid to the Depository by wire transfer without surrender of such Bond to the Trustee; provided, however, that the Trustee shall maintain records as to each such payment and of the principal amount of such Bond Outstanding, which shall be binding on the I-Bank and the Holders from time to time of such Bond; provided, further, that payment of the principal and Redemption Price of, and interest on, a Book-Entry Bond at the maturity date or earlier date on which such Bond has been called for redemption in whole shall only be made upon presentation and surrender of such Bond to the Trustee at the Corporate Trust Office.

Notwithstanding Section 8.02, so long as the Depository is the sole registered Holder of a Series of Book-Entry Bonds, the particular Book-Entry Bonds of such Series, or portions thereof, to be redeemed within a maturity shall be selected by lot by the Depository in such manner as the Depository shall determine.

The I-Bank, in its sole discretion and without the consent of the Trustee, the beneficial Holder of a Book-Entry Bond or any other person, may terminate the services of the Depository with respect to a Book-Entry Bond if the I-Bank determines that (i) the Depository is unable to discharge its responsibilities with respect to such Bonds or (ii) a continuation of the requirement that all of the Outstanding Bonds of like Series issued in book entry form be registered in the registration books of the I-Bank in the name of the Depository, is not in the best interest of the beneficial Holders of such Bonds, and the I-Bank shall terminate the services of the Depository upon receipt by the I-Bank and the Trustee of written notice from the Depository that it has received written requests that such Depository be removed from its participants having beneficial interest, as shown in the records of the Depository, in an aggregate amount of not less than fifty percent (50%) in aggregate principal amount of the then Outstanding Bonds for which the Depository is serving as Depository.

Upon the termination of the services of a Depository with respect to a Book-Entry Bond, or upon the resignation of a Depository with respect to a Book-Entry Bond, after which no

substitute securities depository willing to undertake the functions of such Depository can be found which, in the opinion of the I-Bank, is able to undertake such functions upon reasonable and customary terms, such Bonds shall no longer be registered in the registration books kept by the Trustee in the name of a Depository, but shall be registered in the name or names of the Bondholders transferring or exchanging such Bonds shall designate, in accordance with the provisions of this Article III.

#### ARTICLE IV.

#### LOAN AGREEMENTS

**Section 4.01 Release of Loan Agreements from Trust Estate.** The I-Bank may at any time release specified Loan Agreements and the Revenues related thereto that are pledged and assigned to the Trustee pursuant to the Indenture from the lien of the Indenture, and, in its discretion, pledge and assign substitute Loan Agreements and the Revenues related thereto to the Trustee, in each case by filing with the Trustee: (i) an Officer's Certificate describing the specific Loan Agreements to be released or, if applicable, substituted therefor or added thereto; (ii) a certificate of a Qualified Independent Consultant stating: (a) on the basis of such supporting schedules as shall be attached, that after the release of any such Loan Agreements from the lien of the Indenture, and taking into account the payments which the I-Bank reasonably expects will be received under the Loan Agreements which are to be substituted therefor upon such release, if any, and the other Revenues available for the payment of the principal and Redemption Price of, and interest on, the Outstanding Bonds, the resulting Revenues are reasonably expected to be sufficient to pay the principal of and interest due on the Outstanding Bonds on each Interest Payment Date and at maturity thereof; and (b) either (i) that the Projected Debt Service Coverage Ratio for each subsequent Bond Year is not less than 1.25:1.00, taking into account the proposed release or substitution, as applicable or (ii) attaching a Rating Confirmation or an indicative rating conclusion, or similar determination, from each Credit Rating Agency then maintaining a rating on Bonds issued and Outstanding hereunder to the effect that, assuming no other significant rating factor changed, the proposed release or substitution would likely not result in an adverse change in the then-existing rating on such Bonds; and (iii) an opinion of Bond Counsel to the effect that such release or substitution will not affect the exclusion from gross income for federal income tax purposes of interest on the Bonds.

**Section 4.02 Disposition of the Proceeds of Sale, Redemption or Prepayment of Borrower Bonds.** Except as otherwise provided in Section 4.01, Borrower Bonds pledged and assigned to the Trustee pursuant to the Indenture shall not be sold by the I-Bank, or redeemed or prepaid by any Borrower, unless, (i) in the opinion of Bond Counsel, the application of the proceeds of such sale or redemption will not affect the exclusion from gross income for federal income tax purposes of interest on the Bonds and (ii) the I-Bank shall have received a Certificate of a Qualified Independent Consultant stating that the proceeds of such sale, redemption or prepayment (including any prepayment penalties to be paid by the Borrower) are sufficient to pay, redeem or defease Bonds having the same maturity date as, and being equal in principal amount to the principal amount of, the Borrower Bonds so sold, redeemed or prepaid.



In the event Borrower Bonds pledged and assigned to the Trustee pursuant to the Indenture shall be sold by the I-Bank or redeemed or prepaid by the Borrower either at the option of the Borrower pursuant to the terms of the Loan Agreement or as a result of a default in its payment obligations thereunder, the I-Bank may deposit the proceeds of such sale, redemption or prepayment, net of the costs and expenses of the I-Bank in effecting the sale, redemption or prepayment, as appropriate, as specified in an Officer's Certificate:

(A) into the Redemption Fund and apply the same to the payment, defeasance or redemption of Bonds having the same maturity date as, and being equal in principal amount to the principal amount of, the Borrower Bonds so sold, redeemed or prepaid; and/or

(B) into a Subaccount to be established in the Debt Service Fund for investment by the Trustee in accordance with Article VII, the earnings on which investment shall be used to pay interest when due on Bonds being equal in principal amount to the principal amount of Borrower Bonds so sold, redeemed or prepaid, and the principal of which investment shall be used to pay the principal of such Bonds.

**Section 4.03 Amendments to Loan Agreements Not Requiring Consent of Bondholders.** The I-Bank may, with prior written notice to the Trustee, but without the consent of or notice to the Bondholders, consent to any amendment or modification of any provision of any Loan Agreement pledged and assigned to the Trustee pursuant to the Indenture which: (i) is required for the purpose of curing any ambiguity or formal defect or omission in such Loan Agreement or (ii) will not adversely affect the Bonds then Outstanding, as determined in accordance with the next succeeding paragraph.

The Bonds shall be deemed to be affected by a modification or amendment of such Loan Agreement if the same adversely affects or diminishes the rights of the Holders of the Bonds, which rights were granted pursuant to such Loan Agreement, in any material respect. The I-Bank may in its discretion determine whether or not, in accordance with the foregoing provisions, Bonds would be affected by any modification or amendment of any such Loan Agreement and any such determination shall be binding and conclusive on the Trustee and all Holders of the Bonds. The I-Bank shall receive an opinion of Bond Counsel as conclusive evidence of the extent, if any, to which such modification or amendment so affects the rights of any Holders of Bonds then Outstanding.

**Section 4.04 Amendments to Loan Agreements Requiring Consent of Bondholders.** Except for amendments or modifications pursuant to Section 4.03, the I-Bank shall not enter into any amendment or modification of any Loan Agreement pledged and assigned to the Trustee pursuant to the Indenture without providing notice to the Trustee and obtaining the written consent of the Holders of a majority in aggregate principal amount of the Senior Bonds then Outstanding, or if no Senior Bonds are then Outstanding, then a majority in aggregate principal amount of the Subordinated Bonds then Outstanding.

Such consent of Bondholders shall be given and procured in the same manner as provided in Section 13.03 with respect to Supplemental Indentures.

Notwithstanding anything to the contrary contained in the Indenture or any Loan Agreement, the I-Bank shall not agree to any amendment, change or modification of, or any waiver, discharge or termination of, any of the provisions of any Loan Agreement pledged and assigned to the Trustee pursuant to the Indenture which would adversely affect the exclusion from gross income for federal income tax purposes of interest on any of the Bonds. The I-Bank shall be entitled to rely upon an opinion of Bond Counsel with respect to the extent, if any, as to which any amendment, change or modification of, or any waiver, discharge or termination of, any of the provisions of any Loan Agreement would adversely affect the exclusion from gross income for federal income tax purposes of interest on any of the Bonds.

## **ARTICLE V. REVENUES AND FUNDS**

### **Section 5.01 Creation and Custody of Funds and Accounts.**

(a) The following Funds, separate Accounts within Funds, and separate Subaccounts within Accounts are hereby established, each to be held by the Trustee:

- (i) Project Fund
- (ii) Redemption Fund, and, within such Fund,
  - (A) Senior Bonds Redemption Account
  - (B) Subordinated Bonds Redemption Account
- (iii) Loan Servicing Fund
- (iv) Fee Fund
- (v) Revenue Fund
- (vi) Debt Service Fund, and, within such Fund,
  - (A) Principal Account
    - a. Series Specific Principal Subaccount
  - (B) Interest Account, and, within such Account,
    - a. Series Specific Interest Subaccount, and, within such Subaccount
      - i. Capitalized Interest Subaccount

- ii. Interest Subsidy Subaccount
  - (vii) Subordinated Debt Service Fund, and, within such Fund,
    - (A) Principal Account
    - (B) Interest Account, and, within such Account,
      - a. Capitalized Interest Subaccount
  - (viii) Debt Service Reserve Fund, and, within such Fund,
    - (A) Common Reserve Account
    - (B) One or more Series Reserve Accounts, if applicable
  - (ix) Cross-Investment Fund, and, within such Fund,
    - (A) C-I Receiving Account
    - (B) C-I Sending Account
  - (x) Rebate Fund

(b) Pursuant to Section 5.04, the Trustee shall, if directed by the I-Bank, establish in the Project Fund such Accounts and Subaccounts as an Authorized Officer of the I-Bank may direct in writing.

(c) For each Series of Bonds for which Capitalized Interest has been provided, the Trustee shall, as an Authorized Officer of the I-Bank may direct in writing by an Authorized Officer's Certificate, establish a Capitalized Interest Subaccount within the Series Specific Interest Subaccount within the Interest Account within the Debt Service Fund.

(d) In addition to the foregoing Funds, Accounts and Subaccounts, the I-Bank may, by Supplemental Indenture or by Officer's Certificate, establish one or more additional Funds, Accounts or Subaccounts with the Trustee and determine the extent to which the moneys and securities therein are pledged as additional security for the Bonds.

(e) All moneys, securities and Reserve Deposits in the Funds, Accounts and Subaccounts established pursuant to subsections (a) through (d) and of this Section 5.01, other than (i) the amounts within the Loan Servicing Account that constitute Loan Origination Fees and Administrative Fees, (ii) the Fee Fund, (iii) the Project Fund, (iv) the Rebate Fund, if any, and (v) the Cross-Investment Fund, and except interest earnings on any of the foregoing to the extent necessary to comply with Article VI, shall be available for and pledged for the payment

of Senior Bonds, but shall nevertheless be disbursed, allocated and applied solely for the uses and purposes provided herein.

(f) A Supplemental Indenture establishing a Series of Bonds may establish a Fund, Account or Subaccount and pledge the moneys, securities, and deposits therein as additional security for the payment of Bonds.

(g) A Supplemental Indenture establishing a Series of Bonds may establish a Series Reserve Account and pledge the moneys, securities, and Reserve Deposits therein as security solely for the payment of Bonds of such Series.

(h) The moneys derived from the remarketing of Option Bonds tendered or deemed to have been tendered for purchase or redemption in accordance with the Supplemental Indenture authorizing the issuance of such Bonds or derived from a Liquidity Facility or a Credit Facility relating to such Bonds, and the moneys in any Fund, Account or Subaccount established by or pursuant to such Supplemental Indenture for the payment of the purchase price or Redemption Price of Option Bonds so tendered or deemed to have been tendered, shall not be held in trust for the benefit of the Holders of Bonds other than the Holders of such Option Bonds, and such moneys are pledged hereby for the payment of the purchase price or Redemption Price of such Option Bonds.

(i) Amounts on deposit in the Common Reserve Account of the Debt Service Reserve Fund, if any, shall be available for the payment of Debt Service on all Outstanding Senior Bonds issued pursuant to the Indenture.

(j) (1) The Subordinated Debt Service Fund is hereby established, and within the Subordinated Debt Service Fund, an Interest Account and a Principal Account, and such other Accounts and Subaccounts that the I-Bank may from time to time, by Supplemental Indenture or Officer's Certificate, establish. If directed in writing by an Authorized Officer of the I-Bank, for each Series of Bonds for which Capitalized Interest has been provided, the Trustee shall establish, within the Interest Account within the Subordinated Debt Service Fund, a Capitalized Interest Subaccount. The Subordinated Debt Service Fund and each Account and Subaccount established thereunder shall be held by the Trustee.

(2) Any amounts on deposit in the Subordinated Debt Service Fund established pursuant to this Section 5.01(j), except interest earnings to the extent necessary to comply with Article VI, shall be available for and pledged for the payment of each Series of Subordinated Bonds secured pursuant to this Section 5.01(j). In the event of a default by any Defaulting Borrower in making such Borrower's Loan Repayments, no amounts on deposit in any other Fund, Account or Subaccount established hereunder, other than the Subordinated Debt Service Fund and the Subordinated Bonds Redemption Account of the Redemption Fund, shall be available to the Holders of any Subordinated Bond secured pursuant to this Section 5.01(j).

(3) Subordinated Bonds secured pursuant to this Section 5.01(j) shall at all times remain subordinate to all Senior Bonds secured pursuant to this Section 5.01.

(4) A Series of Subordinated Bonds may be issued on a parity with or subordinate to Outstanding Subordinated Bonds and may be secured pursuant to this Section 5.01(j).

## **Section 5.02 [Reserved]**

**Section 5.03 Loan Repayments.** The Trustee shall, as agent for the I-Bank, perform the following duties and services:

(a) The Trustee shall collect from each Borrower all required Loan Repayments, when due, in the amounts and at the times established by the I-Bank. The I-Bank shall use its best efforts to provide such Loan Repayment information to the Trustee no less than thirty (30) days prior to the date on which any such payments are due and payable. In collecting such payments from each Borrower, the Trustee shall rely exclusively upon such Loan Repayment information provided by the I-Bank.

(b) Upon receipt thereof, the Trustee shall deposit all Loan Repayments in the Loan Servicing Account. The Trustee hereby acknowledges that (a) all amounts so collected shall be collected by the Trustee on behalf of, and for the benefit of, the I-Bank, (b) in making such collections, the Trustee shall act as an agent for the I-Bank, (c) all amounts so collected by the Trustee shall be the property of the I-Bank, and not of the Trustee, and (d) all such amounts, when received by the Trustee, shall be deemed to be received by the I-Bank.

(c) Promptly after collection of each Borrower's Loan Repayment, the Trustee shall credit the moneys received from each such Borrower with respect to a particular payment date (including, without limitation, any credit derived from the Interest Subsidy Subaccount) in the following order of priority: *first*, to the payment of such Borrower's Loan Origination Fee, *second*, to the payment of the Administrative Fee payment then due under such Borrower's Loan Agreement, *third*, to the repayment of the Borrower's Loan, and *fourth*, to the payment then due under such Borrower's Loan Agreement of any Late Fees.

(d) Promptly after crediting each Borrower pursuant to the order of priority established under paragraph (c), above, for the moneys received from such Borrower with respect to a particular payment date, the Trustee shall (A) *first*, deposit into the Fee Fund the amounts constituting Loan Origination Fees and the Administrative Fees, and (B) *second*, deposit the remaining moneys, including Late Fees, into the Revenue Fund to be applied in accordance with Section 5.06 hereof.

## **Section 5.04 Project Fund.**

(a) Loans from Borrower Subaccounts of Series Account of Project Fund. From the proceeds of the applicable Series of Bonds, an amount set forth in the Officer's Certificate pursuant to Section 2.03(f) shall be deposited in the applicable Series Account of the Project Fund, and the Trustee shall use such moneys to make the Loans to the applicable Borrowers to finance or refinance the Costs of such Borrowers' Projects, as follows:

(i) The Trustee, in accordance with Section 5.01(a), shall establish in the Project Fund the applicable Series Account, and within such Series Account, the applicable Subaccount for the benefit of each Borrower and shall deposit therein the amount of the Loan to be made to such Borrower from the proceeds of such Series of Bonds, as set forth in such Officer's Certificate, to pay the Costs of the Transportation Projects to be financed or refinanced in whole

or in part by such Loan, in exchange for which the I-Bank shall receive the Borrower Bond of such Borrower. The Trustee shall promptly deposit and hold such Borrower Bond in the applicable Series Account of the Project Fund.

(ii) **[Reserved]**

(iii) In the event that Borrower Subaccounts are established, the Trustee shall make payments from a Borrower Subaccount for the Costs of the respective Borrower's Project(s) in the amounts, at the times, in the manner, and pursuant to the other terms and conditions as are set forth in this Section 5.04 and in such Borrower's Loan Agreement. Before any such payment shall be made, an Authorized Officer of the I-Bank shall file with the Trustee a written direction as to the release of funds for such Costs of such Borrower's Project(s), which written direction, which may be transmitted to the Trustee by Electronic Means, shall be in such form as shall be determined from time to time by the Executive Director or other Authorized Officer of the I-Bank. The Trustee shall make payment required by such written direction including by interbank transfer or other method of transfer. No disbursement from the respective Borrower Subaccount shall be made by the Trustee pursuant to the terms hereof unless the Borrower has complied with each provision of Section 3.02 of the respective Loan Agreement, as evidenced by the written direction of the I-Bank as referenced herein.

(b) Application of Excess Loan Proceeds in Borrower Project Subaccount of Series Account. The I-Bank shall file with the Trustee an Officer's Certificate of the I-Bank with respect to each Applicable Project Subaccount, directing the Trustee to transfer to the Debt Service Fund (and to the appropriate Account and Subaccount therein), to be applied as a credit against and considered as Loan Repayments due from the Applicable Borrower in whose favor any such Project Subaccount was established, all of the moneys remaining in any such Project Subaccount at the following times and upon satisfaction of the following conditions: (A) (i) the I-Bank has approved all requisitions to be paid from such Project Subaccount that are eligible to be approved under the Regulations and (ii) all such requisitions have been paid from such Project Subaccount; or, if earlier, (B) the occurrence of the Project Subaccount Disbursement Deadline, as such term is defined in the Applicable Borrower's Applicable Loan Agreement; provided, however, notwithstanding the provisions hereof to the contrary, the I-Bank may determine to apply the moneys remaining in such Project Subaccount to implement a redemption of Bonds pursuant to the terms of this Indenture to the extent provided by the terms of the Applicable Borrower's Applicable Loan Agreement. Such Officer's Certificate shall (X) state that, as applicable, the proceeds of the Loan have been disbursed to the extent allowed by the Regulations, or the Project Subaccount Disbursement Deadline has occurred, and either (Y) set forth a schedule indicating when and how much of the remaining moneys are to be transferred to the Debt Service Fund (and the appropriate Account and Subaccount therein) and applied as a credit against and considered as Loan Repayments due from the Applicable Borrower in whose favor the Applicable Project Subaccount was established, or (Z) state that such moneys remaining in such Project Subaccount shall be transferred to the Redemption Fund and allocated to the implementation of a redemption of Bonds pursuant to the terms of this Indenture to the extent provided by the terms of the Applicable Borrower's Applicable Loan Agreement. The Trustee shall transfer from any such Project Subaccount to the appropriate Account within the Debt Service Fund (as determined by

the application of clause (Y) above) or to the Redemption Fund (as determined by the application of clause (Z) above) the amounts identified in such Officer's Certificate of the I-Bank at the times indicated therein.

#### **Section 5.05 Fee Fund.**

(a) The Trustee shall remit to the I-Bank all amounts on deposit in the Fee Fund. Unless otherwise directed in writing by an Authorized Officer of the I-Bank, such transfers shall be made to the I-Bank with respect to each Loan Repayment Date on the earlier of (i) the receipt of all Borrower Loan Repayments then due on such Loan Repayment Date or (ii) the tenth (10<sup>th</sup>) day after such Loan Repayment Date. Any amounts received in the Fee Fund after such 10<sup>th</sup> day shall be remitted to the I-Bank when such amounts are received.

#### **Section 5.06 Revenues; Revenue Fund.**

(a) The Trustee shall promptly deposit the following Revenues in the Revenue Fund:

(i) with respect to each Loan Repayment, the portion thereof that constitutes Revenues; and

(ii) any other amounts constituting Revenues that are required to be paid to the Revenue Fund or otherwise made available by the I-Bank pursuant to a Supplemental Indenture or an Officer's Certificate for deposit therein.

(b) No later than two Business Days prior to the date that any Principal Installment or payment of interest on the Bonds is due, the Trustee shall withdraw from the Revenue Fund and deposit in the Funds and Accounts set forth below the following amounts in the following order of priority:

(i) To the Interest Account in the Debt Service Fund the amount, if any, required so that the balance in such Interest Account shall equal the amount of interest due on the Bonds, any Parity Repayment Obligation and Parity Reimbursement Obligations due on each Interest Payment Date. Any credit, deposit or transfer required to be made pursuant to this paragraph (b)(i) shall take into account the amounts, if any, on deposit in the Capitalized Interest Subaccount and the Interest Subsidy Subaccount, in each case, as and to the extent designated for use on the next immediate debt service payment date for the Bonds as provided by the terms of the Loan Repayment information required by the provision of paragraph (a) of Section 5.03;

(ii) To the Principal Account in the Debt Service Fund the amount, if any, required so that the balance in such Principal Account shall equal the amount of the Principal Installments and Sinking Fund Installments of the Senior Bonds and principal or other amount of any Parity Repayment Obligation and Parity Reimbursement Obligations due on each payment date;

(iii) To the Common Reserve Account of the Debt Service Reserve Fund, up to the amount, if any, required so that the balance in the Common Reserve Account shall equal the Reserve Requirement;

(iv) To each Series Reserve Account, if any, of the Debt Service Reserve Fund, such amount specified in writing by an Authorized Officer of the I-Bank from (I) Loan Repayments of Borrowers whose Loans were funded in whole or in part with Bonds secured by such Series Reserve Account or (II) such other funds as shall be made available by the I-Bank for such purpose, up to the amount, if any, required so that the balance in the Series Reserve Account shall equal the requirement established for such Series Reserve Account in the Applicable Supplemental Indenture;

(v) To the C-I Receiving Account within the Cross-Investment Fund, such amount as directed in writing by an Authorized Officer of the I-Bank;

(vi) To the Interest Account in the Subordinated Debt Service Fund the amount, if any, required so that the balance in such Interest Account shall equal the amount of interest due on each Series of Subordinated Bonds and Subordinated Reimbursement Obligations secured pursuant to Section 5.01(j) on the applicable Interest Payment Date;

(vii) To the Principal Account in the Subordinated Debt Service Fund the amount, if any, required so that the balance in such Principal Account shall equal the amount of the principal and Sinking Fund Installments of the Subordinated Bonds due on each Series of Subordinated Bonds or other amount of Subordinated Reimbursement Obligations secured pursuant to Section 5.01(j) on such date;

(viii) To such other Funds, Accounts or Subaccounts, and in such order, as shall be required by any Supplemental Indenture;

(ix) To the C-I Sending Account within the Cross-Investment Fund, such amount as directed in writing by an Authorized Officer of the I-Bank; and

(x) To such other funds or accounts as may be established outside of the Indenture for the security and benefit of Bonds issued pursuant to the Indenture, in such amounts as directed in writing by an Authorized Officer of the I-Bank.

In making the deposits required by the provisions of this paragraph (b), the Trustee shall rely exclusively upon a Certificate of an Authorized Officer of the I-Bank, which Certificate shall be provided to the Trustee by the I-Bank simultaneously with the provision by the I-Bank to the Trustee of the Loan Repayment information required by the provision of subsection (a) of Section 5.03.

After the application of Revenues as provided in this Section 5.06(b), unless otherwise directed in writing by an Authorized Officer of the I-Bank, any amounts remaining in the Revenue Fund shall be transferred to the I-Bank on the next succeeding Business Day after such Bond



Payment Date, free and clear of the lien of this Indenture, to be applied for any lawful purpose of the I-Bank.

**Section 5.07 Debt Service Fund.**

(a) The Trustee shall promptly deposit the following receipts in the Debt Service Fund:

(i) the amount, if any, (1) of the proceeds of any Series of Senior Bonds constituting Capitalized Interest, set forth in the Officer's Certificate required by Section 2.03(f), to be deposited in the Capitalized Interest Subaccount of the Series Specific Interest Subaccount of the Interest Account, and (2) of the proceeds of any Series of Senior Bonds to be deposited in the Interest Subsidy Subaccount of the Series Specific Interest Subaccount of the Interest Account, as set forth in the Officer's Certificate required by Section 2.03(f);

(ii) all amounts required to be transferred to the Interest Account from the Revenue Fund pursuant to Section 5.06(b)(i), which shall be deposited in the Interest Account;

(iii) all amounts required to be transferred to the Principal Account from the Revenue Fund pursuant to Section 5.06(b)(ii), which shall be deposited in the Principal Account;

(iv) any other amounts required to be paid to the Interest Account or Principal Account or otherwise made available for deposit therein as directed by an Authorized Officer.

(b) The Trustee shall pay out of the Interest Account of the Debt Service Fund, including the moneys credited to the Subaccount, if any, established for a Series of Bonds in the Capitalized Interest Subaccount and/or the Interest Subsidy Subaccount, to any Paying Agents for the Bonds, the Provider or the Counterparty, as applicable: (i) on each Interest Payment Date, or the date on which the interest on Parity Reimbursement Obligations is due, the amount required for the payment of interest on the Bonds or the payment of interest on Parity Repayment Obligations or Parity Reimbursement Obligations due on such date, and (ii) on any sinking fund redemption date, the amount required for the payment of accrued interest on the Bonds redeemed unless the payment of such accrued interest shall be otherwise provided for, and such amounts shall be applied by the Paying Agents to such payment. The Trustee shall also pay out of the Interest Account the accrued interest included in the purchase price of the Bonds purchased for retirement.

(c) The Trustee shall pay out of the Principal Account of the Debt Service Fund to any Paying Agents for the Bonds, the Provider or the Counterparty, as applicable: (i) on each date on which principal of the Senior Bonds or the principal or other amount of any Parity Repayment Obligations or Parity Reimbursement Obligation is due, the amounts required for the payment of such principal of the Senior Bonds or the principal or other amount of any Parity Repayment Obligations or any related Parity Reimbursement Obligation due on such date, and (ii) and on each date set for redemption of the Senior Bonds, the Redemption Price due on such redemption date, and such amounts shall be applied by the Paying Agents to such payments.

(d) Amounts made available by the I-Bank for the purchase of Senior Bonds that are Term Bonds of the maturity that are subject to mandatory sinking fund redemption shall be applied by the Trustee prior to the thirtieth (30th) day preceding any mandatory sinking fund redemption date to such purpose, at prices (including any brokerage and other charges) not exceeding the Redemption Price payable for such Term Bonds pursuant to such sinking fund redemption plus unpaid interest accrued to the date of purchase. Upon such purchase of any such Term Bond, the Trustee shall then credit an amount equal to the principal of the Term Bond so purchased toward the next succeeding Sinking Fund Installment for such Term Bond.

(e) As soon as practicable after the thirtieth (30th) day preceding the date of any such sinking fund redemption, the Trustee shall proceed pursuant to Article VIII to call for redemption on such redemption date Term Bonds of the maturity for which mandatory sinking fund redemption is required in such amount as shall be necessary to complete the retirement of the principal amount specified for such mandatory sinking fund redemption of the Term Bonds. The Trustee shall so call such Term Bonds for redemption whether or not it then has moneys in the Principal Account sufficient to pay the applicable Redemption Price thereof and moneys in the Interest Account sufficient to pay interest thereon to the redemption date. The Trustee shall pay out of the Principal Account to the appropriate Paying Agents, on each such redemption date, the Redemption Price of the Term Bonds so called for redemption, and such amount shall be applied by such Paying Agents to such redemption.

#### **Section 5.08 Redemption Fund.**

(a) There shall be deposited in the Senior Bonds Redemption Account and the Subordinated Bonds Redemption Account, respectively:

(i) proceeds of Refunding Bonds, to the extent provided in the Supplemental Indenture authorizing the issuance of such Refunding Bonds, allocated to the payment of the principal and Redemption Price of, and interest on, the Series of Senior Bonds or Series of Subordinated Bonds, respectively, to be refunded, funded or retired through the issuance of such Refunding Bonds;

(ii) amounts to be transferred to:

(a) the Senior Bonds Redemption Account from:

- (1) the Project Fund, pursuant to Section 5.04(c),
- (2) the Debt Service Fund, pursuant to Section 5.07(f), or
- (3) the Debt Service Reserve Fund, pursuant to subsections (h) and (i) of Section 5.09, or

(b) the Subordinated Bonds Redemption Account from:

- (1) the Project Fund, pursuant to Section 5.04(c), or
- (2) the Subordinated Debt Service Fund, pursuant to Section 5.10(f); and

(iii) any other moneys, including Revenues, made available by the I-Bank for the purposes of the Redemption Fund and not otherwise required by the Indenture to be deposited or applied elsewhere.

(b) Subject to subsection (e) below, amounts in the Senior Bonds Redemption Account may be applied by the I-Bank to the redemption of Senior Bonds in accordance with Section 8.01 and the applicable Supplemental Indenture or, in lieu thereof, to the purchase for cancellation of Senior Bonds in accordance with Section 8.05 at prices not exceeding the applicable Redemption Prices (plus accrued interest) had such Senior Bonds been redeemed (or, if not then subject to redemption, at the applicable Redemption Prices when next subject to redemption), such purchases to be made by the Trustee at such times and in such manner as directed in writing by the I-Bank. Notwithstanding the foregoing, the amounts, if any, transferred to the Senior Bonds Redemption Account from the Common Reserve Account pursuant to Section 5.09(h) shall be applied to the redemption of Common Reserve Bonds being refunded pursuant to an Officer's Certificate and (ii) amounts transferred to the Senior Bonds Redemption Account from the applicable Series Reserve Account pursuant to Section 5.09(i) shall be applied to the redemption of the Series of Senior Bonds secured by such Series Reserve Account.

(c) Subject to subsection (f) below, amounts in the Subordinated Bonds Redemption Account may be applied by the I-Bank to the redemption of Subordinated Bonds in accordance with Section 8.01 and the applicable Supplemental Indenture or, in lieu thereof, to the purchase of Senior Bonds in accordance with Section 8.05 at prices not exceeding the applicable Redemption Prices (plus accrued interest) had such Subordinated Bonds been redeemed (or, if not then subject to redemption, at the applicable Redemption Prices when next subject to redemption), such purchases to be made by the Trustee at such times and in such manner as directed in writing by the I-Bank.

(d) From moneys in the Redemption Fund, the Trustee shall disburse such amounts at such times as are required for the redemption or purchase for cancellation of Bonds. Any amounts in the Senior Bonds Redemption Account so committed but not required for such purposes may be transferred to the Debt Service Fund or the Debt Service Reserve Fund, and any amounts in the Subordinated Bonds Redemption Account so committed but not required for such purposes may be transferred to the Subordinated Debt Service Fund, for the purposes thereof, in each case upon the written direction of an Authorized Officer.

(e) If at any time the amount on deposit and available therefor in the Debt Service Fund is insufficient to pay the principal and Redemption Price of, and interest on, and Parity Repayment Obligations and Parity Reimbursement Obligations in respect of, the Senior Bonds then due, the Trustee shall withdraw from the Senior Bonds Redemption Account and deposit in the Debt Service Fund the amount necessary to meet the deficiency (other than amounts held therein for the redemption of Senior Bonds for which a notice of redemption shall have already been given by the Trustee); provided, however, that amounts transferred to the Senior Bonds Redemption Account from a Series Reserve Account pursuant to Section 5.09(i) shall be used to meet such deficiency solely in respect of the Series of Senior Bonds secured by such Series Reserve Account.

(f) If at any time the amount on deposit and available therefor in the Subordinated Debt Service Fund is insufficient to pay the principal of, and interest on, and Subordinated Reimbursement Obligations in respect of, the Subordinated Bonds then due, the Trustee shall withdraw from the Subordinated Bonds Redemption Account and deposit in the Subordinated Debt Service Fund the amount necessary to meet the deficiency (other than amounts held therein for the redemption of Subordinated Bonds for which a notice of redemption shall have already been given by the Trustee).

#### **Section 5.09 Debt Service Reserve Fund.**

(a) Pursuant to Section 5.01(a)(vi), the Trustee shall establish and maintain within the Debt Service Reserve Fund a separate Account designated as the Common Reserve Account. The Trustee may also establish and maintain, from time to time, one or more Series Reserve Accounts within the Debt Service Reserve Fund, with each such Series Reserve Account securing one or more Series of Senior Bonds as set forth in the Supplemental Indenture authorizing the issuance thereof. In connection with the issuance of a Series of Senior Bonds, the Trustee shall deposit in the Common Reserve Account or the Series Reserve Account established and/or maintained for such Series of Bonds, as applicable, an amount equal to the Reserve Requirement required to be deposited therein, as provided in the Supplemental Indenture authorizing the issuance thereof; provided, however, that the applicable Supplemental Indenture may provide that the Reserve Requirement, if any, attributable to any Series of Senior Bonds may be funded in substantially equal installments over a period of time after issuance as specified in the applicable Supplemental Indenture (which period shall not exceed twenty-four (24) months).

(b) First, all moneys in a Series Reserve Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal and Redemption Price of, and interest on, and Parity Repayment Obligations and Parity Reimbursement Obligations in respect of, the applicable Series of Senior Bonds secured by such Series Reserve Account, in the event of a deficiency in the Principal Account or the Interest Account of the Debt Service Fund.

(c) Second, all moneys in the Common Reserve Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal and Redemption Price of, and interest on, and Parity Repayment Obligations and Parity Reimbursement Obligations in respect of, Common Reserve Bonds, in the event of a deficiency in the Principal Account or the Interest Account of the Debt Service Fund, on a Pro Rata Basis if such moneys are insufficient to make up such deficiency.

(d) If insufficient moneys are available in the Debt Service Fund on the date upon which the payment of the principal or Redemption Price of, or interest on, and Parity Repayment Obligations and Parity Reimbursement Obligations in respect of, any Series of Senior Bonds secured by the Debt Service Reserve Fund is due, the Trustee shall immediately, and after taking into account any transfers pursuant to the provisions of Section 5.06 and Section 5.08, transfer moneys from the applicable Series Reserve Account or the Common Reserve Account, to the Debt Service Fund to make up such deficiency to be applied as provided in this Section 5.09; provided, however, that: (i) amounts in the Series Reserve Account shall be used solely for the payment of

the Series of Senior Bonds secured by such Series Reserve Account; and (ii) amounts in the Common Reserve Account shall be used solely for the payment of the Common Reserve Bonds.

(e) The Trustee shall deposit in the Common Reserve Account or the Series Reserve Account, as applicable: (i) all amounts required to be transferred to the Debt Service Reserve Fund from the Revenue Fund pursuant to Section 5.06; (ii) any amounts made available by a Defaulting Borrower in order to reimburse the Debt Service Reserve Fund for transfers to the Debt Service Fund, such amounts to be deposited into either the Common Reserve or the applicable Series Reserve as directed in writing by an Authorized Officer; and (iii) such other funds, securities, or other property made available by the I-Bank for deposit therein.

(f) The Reserve Requirement may be satisfied with cash and/or Reserve Deposits.

(g) Notwithstanding anything to the contrary in the Indenture or any Supplemental Indenture, in the event of a draw on either the Series Reserve Account or the Common Reserve Account pursuant to Section 5.09(d), then, on the next succeeding Bond Payment Date(s) when amounts are available, amounts shall be deposited in the Series Reserve Account or the Common Reserve Account, as applicable, pursuant to Section 5.06. In the event that a Reserve Requirement is satisfied in whole or in part by one or more Reserve Deposits, the Trustee shall deplete any cash balance in such Account before drawing on any Reserve Deposit in such Account. If there shall have been a draw on a Reserve Deposit, deposits made pursuant to Section 5.06(b)(iii) or Section 5.06(b)(iv), as applicable, shall be used first to repay the applicable Reserve Deposit provider, and second to replenish the cash balances in the Debt Service Reserve Fund to the required levels. Unless and until the requirements of the preceding three sentences are met, the difference between the amount of such withdrawals or draws and the amount required to be redeposited or restored to the Debt Service Reserve Fund on account of such withdrawals or draws shall be deemed to be on deposit in the Debt Service Reserve Fund for purposes of calculating compliance with the Reserve Requirement.

(h) Except as otherwise specified in a Supplemental Indenture, the I-Bank shall not be required to establish or fund any Reserve Requirement for any or all Series of Senior Bonds issued hereunder, and the I-Bank makes no covenant to the Holders of the Senior Bonds or any other party that funds or other assets will be available in the Debt Service Reserve Fund in the event of a deficiency in the Debt Service Fund on any date upon which the payment of the principal and Redemption Price of, and interest on, any Series of Senior Bonds is due.

(i) Subject to Section 5.09(e), the Trustee shall determine the amount of cash and Investment Securities on deposit in the Common Reserve Account on each of the following dates: (i) each Interest Payment Date; (ii) each date on which principal or any other amount of any Senior Bonds, Parity Repayment Obligations or Parity Reimbursement Obligations is due; and (iii) each date on which any Senior Bonds are redeemed or defeased in accordance with the Indenture. Whenever the Trustee shall determine that the cash and Investment Securities on deposit in the Common Reserve Account, together with all other funds available for such purpose, is in excess of the Reserve Requirement for the Common Reserve Bonds, then the Trustee shall either (i) transfer such excess cash and Investment Securities to any Fund or Account established hereunder,

(ii) in the case of cash that was provided by the I-Bank, remit such excess cash to the I-Bank, or (iii) transfer such excess amount to the Debt Service Fund or the Senior Bonds Redemption Account of the Redemption Fund, for the purpose of paying or redeeming, as applicable, Common Reserve Bonds; provided, however, that if such excess amount is the result of a redemption or defeasance of Senior Bonds, then, at the written direction of an Authorized Officer, such excess amount may be applied to the redemption or defeasance of such Senior Bonds; and further provided that, in each case, the Trustee shall take only such action or actions as specified in an Officer's Certificate following an Authorized Officer's consultation with Bond Counsel.

(j) Subject to Section 5.09(e), the Trustee shall determine the amount of cash and Investment Securities on deposit in each Series Reserve Account on each of the following dates, with respect to each Series of Senior Bonds secured by a Series Reserve Account: (i) each Interest Payment Date; (ii) each date on which principal or any other amount of any such Series of Senior Bonds, related Parity Repayment Obligation, or related Parity Reimbursement Obligation is due; and (iii) each date on which any such Senior Bonds are redeemed or defeased in accordance with the Indenture. With respect to each Series Reserve Account, whenever the Trustee shall determine that the cash and Investment Securities on deposit in each Series Reserve Account, together with all other funds available for such purpose, is in excess of the Reserve Requirement for the Series of Senior Bonds secured by such Series Reserve Account, then the Trustee, at the written direction of an Authorized Officer, shall transfer such excess amount to the Debt Service Fund or the Senior Bonds Redemption Account of the Redemption Fund, for the purpose of paying or redeeming, as applicable, Senior Bonds of such Series ; provided, however, that if such excess amount is the result of a redemption or defeasance of Senior Bonds, then, at the written direction of an Authorized Officer, such excess amount may be applied to the redemption or defeasance of such Senior Bonds; and further provided that, in each case, the Trustee shall take only such action or actions as specified in an Officer's Certificate following an Authorized Officer's consultation with Bond Counsel.

(k) For the avoidance of doubt, neither the Debt Service Reserve Fund nor any Series Reserve Account therein shall secure the payment of the principal and Redemption Price of, and interest on, any Series of Subordinated Bonds.

(l) Notwithstanding anything to the contrary in the Master Indenture, unless otherwise provided in a Supplemental Indenture, to the extent that the Reserve Requirement has been funded, then, (1) the Reserve Requirement for all Outstanding Common Reserve Bonds shall be determined as set forth in the definition of "Reserve Requirement" herein and, pursuant thereto, may be reduced to the point where no funds or other assets will be available in the Common Reserve Account within the Debt Service Reserve Fund at any time, including in the event of a deficiency in the Debt Service Fund on any date upon which the payment of the principal and Redemption Price of, and interest on, any Series of Senior Bonds is due.

### **Section 5.10 Subordinated Debt Service Fund.**

(a) The Trustee shall promptly deposit the following receipts in the Subordinated Debt Service Fund:

(i) the amount, if any, of the proceeds of any Series of Subordinated Bonds constituting Capitalized Interest, set forth in the Officer's Certificate required by Section 2.03(f) to be deposited in the Subaccount for such Series of Subordinated Bonds in the Capitalized Interest Subaccount of the Interest Account;

(ii) all amounts required to be transferred to the Interest Account of the Subordinated Debt Service Fund from the Revenue Fund pursuant to Section 5.06(b)(vi), which shall be deposited in the Interest Account;

(iii) all amounts required to be transferred to the Principal Account of the Subordinated Debt Service Fund from the Revenue Fund pursuant to Section 5.06(b)(vii), which shall be deposited in the Principal Account; and

(iv) any other amounts required to be paid to the Interest Account or Principal Account of the Subordinated Debt Service Fund or otherwise made available for deposit by the I-Bank.

(b) The Trustee shall pay out of the Interest Account of the Subordinated Debt Service Fund, including the moneys credited to the Subaccount, if any, established for a Series of Subordinated Bonds in the Capitalized Interest Subaccount, to any Paying Agents for each Series of Subordinated Bonds, the Provider or the Counterparty, as applicable, (i) on each Interest Payment Date or the date on which the interest on Subordinated Reimbursement Obligations is due, the amount required for the payment of interest on such Subordinated Bonds or the payment of interest on Subordinated Reimbursement Obligations due on such payment date and (ii) on any redemption date, the amount required for the payment of accrued interest on such Subordinated Bonds redeemed unless the payment of such accrued interest shall be otherwise provided for, and such amounts shall be applied by the Paying Agents to such payment. The Trustee shall also pay out of the Interest Account the accrued interest included in the purchase price of such Subordinated Bonds purchased for retirement pursuant to subsection (d) below.

(c) The Trustee shall pay out of the Principal Account of the Subordinated Debt Service Fund to any Paying Agents for the Bonds, the Provider or the Counterparty, as applicable: (i) on each date on which principal of the Subordinated Bonds or the principal or other amount of any Subordinated Reimbursement Obligation is due, the amounts required for the payment of such principal of the Subordinated Bonds or the principal or other amount of any Subordinated Reimbursement Obligation due on such date, and (ii) and on each date set for redemption of the Subordinated Bonds, the Redemption Price due on such redemption date, and such amounts shall be applied by the Paying Agents to such payments.

(d) Amounts made available by the I-Bank for such purpose shall be applied by the Trustee, prior to the forty-fifth (45th) day preceding any mandatory sinking fund redemption date, to the purchase of Subordinated Bonds that are Term Bonds secured pursuant to Section 5.01(j) of the maturity that are subject to such mandatory sinking fund redemption, at prices (including any brokerage and other charges) not exceeding the Redemption Price payable for such Term Bonds secured pursuant to Section 5.01(j) pursuant to such sinking fund redemption plus unpaid interest accrued to the date of purchase. Upon such purchase of any such Term Bond secured pursuant to Section 5.01(j), the Trustee shall then credit an amount equal to the principal of such Term Bond so purchased toward the next succeeding Sinking Fund Installment for such Term Bond secured pursuant to Section 5.01(j).

(e) As soon as practicable after the forty-fifth (45th) day preceding the date of any such sinking fund redemption, the Trustee shall proceed pursuant to Article VIII to call for redemption on such redemption date the Term Bonds secured pursuant to Section 5.01(j) of the maturity for which mandatory sinking fund redemption is required in such amount as shall be necessary to complete the retirement of the principal amount specified for such mandatory sinking fund redemption of such Term Bonds secured pursuant to Section 5.01(j). The Trustee shall so call such Term Bonds secured pursuant to Section 5.01(j) for redemption whether or not it then has moneys in the Principal Account of the Subordinated Debt Service Fund sufficient to pay the applicable Redemption Price thereof and moneys in the Interest Account of the Subordinated Debt Service Fund sufficient to pay interest thereon to the redemption date. The Trustee shall pay out of the Principal Account of the Subordinated Debt Service Fund to the appropriate Paying Agents, on each such redemption date, the Redemption Price of such Term Bonds secured pursuant to Section 5.01(j) so called for redemption, and such amount shall be applied by such Paying Agents to such redemption.

(f) Upon receipt by the Trustee of an Officer's Certificate showing that the amount on deposit in the Subordinated Debt Service Fund exceeds the sum of the Debt Service and Subordinated Reimbursement Obligations in respect of Subordinated Bonds remaining to be paid therefrom during the then current Bond Year, the Trustee shall, at the written direction of an Authorized Officer, transfer such excess amount to the Subordinated Bonds Redemption Account of the Redemption Fund for the purposes thereof.

#### **Section 5.11 Cross-Investment Fund.**

##### **(a) Receiving Cross-Investment Funds**

(1) If at any time the Trustee shall notify the I-Bank that insufficient funds are available, after the making of all Debt Service Fund deposits called for in Section 5.07(a)(i) to (iv), inclusive, to meet a scheduled payment, then due, of the interest on and/or principal of a Series of Senior Bonds, then an Authorized Officer of the I-Bank may, subject to the limitations set forth in Section 5.12 hereof, direct an Additional Program Trustee to make a Cross-Investment of funds held under and pursuant to the terms of an Additional Program Indenture, to the extent of any funds available for such Cross-Investment, into the C-I Receiving Account within the Cross-Investment Fund established under this Indenture to cure any such deficiency. Any such



Cross-Investment shall be evidenced by a Cross-Investment Agreement and secured by a Cross-Investment Obligation issued under this Master Indenture to and for the benefit of such Additional Program Indenture. Any such Cross-Investment shall be made by the Additional Program Trustee within two (2) Business Days following the receipt of such direction from the I-Bank. The amount of funds held under an Additional Program Indenture and available for such Cross-Investment into the Cross-Investment Fund shall be limited to the amount lawfully available under the Additional Program Indenture for such purpose and shall be further limited to the amount specified by the I-Bank in writing to the Additional Program Trustee.

(2) Upon receipt of the Cross-Investment funds from an Additional Program Indenture into the C-I Receiving Account within the Cross-Investment Fund, the Trustee shall immediately transfer such funds to the Debt Service Fund to pay the interest on and/or the principal of any Series of Senior Bonds then due and payable.

(3) Pursuant to an Officer's Certificate, the Trustee shall repay the amount of any Cross-Investment funds received from an Additional Program Indenture (a) using amounts deposited into the C-I Receiving Account within the Cross-Investment Fund pursuant to Section 5.06(b)(v), or (b) using any amounts deposited by the I-Bank herein for such purpose, or (c) using any amounts held under this Master Indenture and available for such purpose, provided that the I-Bank has received an opinion of Bond Counsel to the effect that such action (i) shall not cause an adverse tax consequence; (ii) is compliant with the Act; and (iii) is in accordance with the applicable Cross Investment Agreement or Agreements.

(b) Sending Cross-Investment Funds

(1) If at any time an Additional Program Trustee shall notify the I-Bank that insufficient funds are available for that Additional Program, after the making of all debt service fund deposits called for in an Additional Program Indenture to meet the payment of the interest on and/or principal of a series of senior-lien bonds issued pursuant to such Additional Program Indenture then due and payable, an Authorized Officer of the I-Bank may, subject to the limitations set forth in paragraph (b)(2) of this Section 5.11, direct the Trustee, pursuant to an Officer's Certificate, to make a Cross-Investment of funds held under the Cross-Investment Sending Account within the Cross-Investment Fund, to the extent of any funds available therefor, into such Additional Program Indenture to cure any such deficiency. Any such Cross-Investment shall be evidenced by a Cross-Investment Agreement and secured by a Cross-Investment Additional Program Note issued pursuant to such Additional Program Indenture to and for the benefit of this Master Indenture. Any such Cross-Investment shall be made by the Trustee within two (2) Business Days following the receipt of such direction from the I-Bank.

(2) Unless otherwise specified in a Supplemental Indenture, the total principal amount of funds that are invested in Additional Program Notes at any given time shall not exceed, in the aggregate, the lesser of (i) the amount legally permitted to be used for such purpose, and (ii) 50% of the Annual Appropriation Amount for the program year at the time in which such Cross-Investment is to be made; provided, however, that, notwithstanding anything to the contrary herein, no Supplemental Indenture executed and delivered hereunder shall alter such limitation unless the I-Bank shall have received either (x) a Rating Confirmation or (y) an indicative rating conclusion,

or similar determination, from each Credit Rating Agency then maintaining a rating on Bonds issued and Outstanding hereunder to the effect that, should the I-Bank execute and deliver such Supplemental Indenture, and assuming no other significant rating factor changed, such action would likely not result in an adverse change in the then-existing rating on such Bonds.

(3) Upon the Cross-Investment of funds from the C-I Sending Account within the Cross-Investment Fund into an Additional Program Indenture, such funds shall immediately be applied to pay the interest on and/or the principal of any series of senior-lien bonds issued pursuant to such Additional Program Indenture then due and payable as required by the Cross-Investment Agreement. The Cross-Investment Additional Program Note evidencing such Cross-Investment shall be held by the Trustee in the C-I Sending Account within the Cross-Investment Fund. In accordance with the Additional Program Indenture and the Cross-Investment Agreement, as such amounts are repaid, they shall be deposited into the C-I Sending Account within the Cross-Investment Fund.

(4) Unless and until applied for the purpose of Cross-Investment, amounts on deposit in the C-I Sending Account within the Cross-Investment Fund may be used for any purpose under this Master Indenture as directed in an Officer's Certificate.

(c) General Provisions Relating to Cross-Investment

(1) Each Cross-Investment Agreement shall require the receiving program to repay to the sending program the Cross-Investment funds received pursuant to the terms of the applicable Cross-Investment Agreement.

(2) This Section 5.11 shall have no force and effect and shall not be operative with respect to making any Cross-Investment with any Additional Program unless the following conditions, as applicable, have been met: (i) with respect to any Additional Program other than the New Jersey Environmental Infrastructure Financing Program, the Additional Program shall have, in force and effect, an Additional Program Indenture incorporating reciprocal Cross-Investment provisions substantially identical to the provisions contained in this Section 5.11; (ii) with respect to the New Jersey Environmental Infrastructure Financing Program, there shall be, in force and effect, a supplemental indenture and / or an amendment to the Master Program Trust Agreement of the New Jersey Environmental Infrastructure Financing Program and / or any other instrument under that Program incorporating Cross-Investment provisions substantially to the same effect as the provisions contained in this Section 5.11, provided, however, that to the extent such provisions are not substantially identical to the provisions contained in this Section 5.11, the I-Bank shall consult with Bond Counsel and the Office of the State Attorney General to determine whether any supplement or amendment to this Section 5.11 is necessary or desirable in order to engage in Cross-Investment transactions with the New Jersey Environmental Infrastructure Financing Program. Such supplement or amendment shall be set forth in a Supplemental Indenture, supplementing or amending this Indenture and authorized by resolution duly adopted by the Board of Directors of the I-Bank. In each case under this subparagraph (c)(2) of this Section 5.11, the I-Bank shall have received either (x) a Ratings Confirmation, or (y) an indicative rating conclusion, or similar determination, from each Credit Rating Agency then maintaining a rating on Bonds

issued and Outstanding hereunder, to the effect that, should the I-Bank commence to engage in Cross-Investment transactions with such Additional Program, and assuming no other significant rating factor changed, such action would likely not result in an adverse change in the then-existing rating on such Bonds.

(3) In no event shall amounts on deposit in any Account within the Cross Investment Fund be applied to pay any Costs of a Project.

### **Section 5.12 Issuance of Cross-Investment Obligations.**

Notwithstanding anything to the contrary contained herein and without having to satisfy the requirements of Article II hereof relating to the issuance of Bonds hereunder, the I-Bank may issue Cross-Investment Obligations to secure its obligations under one or more Cross-Investment Agreements; provided, however that, unless otherwise specified in a Supplemental Indenture, (i) the maximum aggregate principal amount of all Cross-Investment Obligations issued and outstanding at one time may not exceed 50% of the Annual Appropriation Amount in the program year in which such Cross-Investment Obligation is to be issued, (ii) no Cross-Investment Obligation may mature later than 5 years after its issuance date, and (iii) the rate of interest on any Cross-Investment Obligation shall not exceed the lesser of the maximum rate allowable by law or 12% per annum. The specific terms of any Cross-Investment Obligation shall be as set forth in an Officer's Certificate.

(b) Notwithstanding anything to the contrary herein, no Supplemental Indenture executed and delivered hereunder shall alter the limitations set forth in this Section 5.12 with regard to Cross-Investment Obligations unless the I-Bank shall have received either (i) a Rating Confirmation or (ii) an indicative rating conclusion, or similar determination, from each Credit Rating Agency then maintaining a rating on Bonds issued and Outstanding hereunder to the effect that, should the I-Bank execute and deliver such Supplemental Indenture, and assuming no other significant rating factor changed, such action would likely not result in an adverse change in the then-existing rating on such Bonds.

**Section 5.13 Trustee to Notify I-Bank of Amounts Available in any Fund.** The Trustee, at least monthly and more frequently upon the request of the I-Bank, shall notify the I-Bank of the balance in any Fund, Account or Subaccount established pursuant to the Indenture at the time of such request.

## **ARTICLE VI. TAX COVENANTS**

### **Section 6.01 Covenant to Comply with Tax Requirements; Rebate Payments.**

(a) The I-Bank covenants with the Bondholders that it will comply with the Tax Requirements, including, without limitation, those set forth in the applicable Tax Certificate for each tax-exempt Series of Bonds. The Authorized Officers, and each of them without the others, are hereby authorized to execute all certificates, agreements and other documents necessary or

desirable to evidence compliance with such covenant, and are hereby authorized and directed to make all investments of moneys under the Indenture in accordance with such certificates and agreements, required thereby.

(b) In order to enable the I-Bank to satisfy the Tax Requirements, the I-Bank shall direct the Trustee to acquire and sell or otherwise dispose of all Investment Securities in accordance with the “market price rules” contained in Treasury Regulations Section 1.148-6(d) and 1.148-6(c) or any successor or other applicable regulations promulgated by the United States Treasury Department and in a manner that does not cause any Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code. In addition, the Trustee shall maintain accurate books and records setting forth the dates of purchase and sale of any such Investment Securities, the purchase price of such Investment Securities, and the proceeds received with respect to such Investment Securities including any proceeds received upon a sale or other disposition thereof. Such books and records shall also separately record the amount of any brokerage commissions and similar amounts paid in connection with the purchase or sale of any such Investment Securities. Books and records maintained by the Trustee with respect to the applicable tax-exempt Series of Bonds shall be retained by the Trustee until the sixth anniversary of the date on which the last of such Series of Bonds is redeemed or otherwise retired or as otherwise provided in the applicable Supplemental Indenture for such Series of Bonds.

(c) The Authorized Officers, and each of them without the others, are hereby authorized and directed to pay to the United States Treasury Department at such time or times in such amounts as shall be required by the Treasury Department all amounts required under Section 148 of the Code to be rebated, as described in the applicable Tax Certificate for each tax-exempt Series of Bonds. Each such payment shall be, accompanied by Internal Revenue Service Form 8038-T (or any successor or other applicable form).

(d) This Section shall survive the defeasance of the Bonds pursuant to Article XIV hereof.

## **ARTICLE VII. SECURITY FOR AND INVESTMENT OF MONEYS; REBATE FUND**

**Section 7.01 Property Held in Trust.** All moneys and securities from time to time received by the Trustee and held in any Fund created under the Indenture pledged as security for the Bonds shall be held in trust by the Trustee for the benefit of the Holders from time to time of the Bonds entitled to be paid therefrom, subject to the provisions of Section 9.06. Moneys held by the Trustee in trust under the Indenture need not be segregated from other funds except to the extent required by law.

**Section 7.02 Uninvested Moneys Held by the Trustee.** All moneys received by the Trustee hereunder and not invested by the Trustee pursuant to the provisions of this Article VII, to the extent not insured by the Federal Deposit Insurance Corporation or other federal agency, shall be deposited with the Trustee or, if directed by an Authorized Officer of the I-Bank in writing, in the State of New Jersey Cash Management Fund or other similar common trust fund for which the State Treasurer is the custodian.

### **Section 7.03 Investment of, and Payment of Interest on, Moneys.**

(a) Moneys in all Funds and Accounts created pursuant to this Indenture shall be invested upon the direction of an Authorized Officer, which direction shall specify the particular investment to be made, exclusively in Investment Securities, the principal of and interest on which are payable, or which shall be subject to redemption or tender at the option of the Trustee, not later than the dates on which it is estimated that such moneys will be required hereunder. The Investment Securities purchased with the moneys in each Fund and Account hereunder shall be held by or under the control of the Trustee and shall be deemed a part of such Fund or Account. Subject to compliance with the provisions of Article VI, Net Earnings, including any realized increment on securities purchased at a discount, received on all such Investment Securities in any Fund or Account shall be transferred and applied as set forth in paragraph (e) of this Section 7.03. Losses, if any, realized on securities held in any Fund or Account shall be debited to such Fund or Account. Neither the I-Bank, nor the Trustee nor any Depository Bank shall be liable or responsible for any loss resulting from any such investment or resulting from the redemption, sale or maturity of any such investment as herein authorized. If at any time it shall become necessary that some or all of the securities purchased with the moneys in any such Fund, Account or Subaccount be redeemed or sold in order to raise the moneys necessary to comply with the provisions of the Indenture, the Trustee shall effect such redemption or sale, employing in the case of a sale any commercially reasonable method of effecting such sale.

(b) Subject to the foregoing requirements, whenever money in any Fund or Account established hereunder is to be paid in accordance herewith to another such Fund or Account, such payment may be made, upon the direction of an Authorized Officer, in whole or in part, by transferring to such other Fund or Account an amount of Investment Securities held as part of the Fund or Account from which such payment is to be made, provided that the value of such Investment Securities, determined as provided in Section 7.03(c), together with the money, if any, to be transferred, is at least equal to the amount of the payment then to be made.

(c) In computing the amount in any Fund or Account hereunder for any purpose, Investment Securities shall be valued at the market value thereof as determined by a Qualified Independent Consultant, plus accrued interest to the date of valuation.

(d) Notwithstanding anything to the contrary herein, the Trustee, upon the written direction of an Authorized Officer, shall sell, present for redemption or exchange any investment held pursuant to, and the proceeds thereof may be reinvested as provided in, this Section. Except as otherwise provided herein, such investments shall be sold at the best price obtainable by it, or presented for redemption or exchange, whenever it shall be necessary in order to provide money to meet any payment or transfer from the Fund, Account or Subaccount in which such investment is held. The Trustee shall make available to the I-Bank, on or before the fifteenth (15th) day of each calendar month, the amounts then on deposit in each Fund and Account hereunder, including a statement of the value of the Investment Securities held for the credit of each Fund and Account in its custody under the provisions hereof as of the end of the preceding month. The details of such Investment Securities shall include the par value, if any, the cost and the current market value of

such investments as of the end of the preceding month. The Trustee shall also make available to the I-Bank a description of all withdrawals, substitutions and other transactions occurring in each such Fund, Account and Subaccount in the previous month.

(e) **Net Earnings on all Funds and Accounts Subject to Transfer and Credit.** All Net Earnings received from the investment of moneys in the Accounts (and in any Subaccounts therein) of any Fund held hereunder, other than the Fee Fund, shall be paid into the Revenue Fund and applied for the purposes thereof. All Net Earnings received from the investment of moneys in the Fee Fund shall be held in such Fund for the purposes thereof.

(f) Any direction to invest moneys given orally under the terms of the Indenture shall be confirmed in a writing signed by an Authorized Officer which shall specify that any investment designated in such direction is of a type permitted by this Section 7.03.

#### **Section 7.04 [Reserved]**

**Section 7.05 Disposition of Amounts After Payment of Bonds.** Any amounts remaining in the Funds created under the Indenture after payment in full of principal and Redemption Price of, and interest on, all the Bonds, or provisions for payment thereof having been made in accordance with the provisions of the Indenture, and payment of all the fees, charges and expenses of the I-Bank, the Trustee, the Paying Agent and any amounts required to be paid to the United States of America in accordance with the provisions of Article VI, shall, except as otherwise provided in Section 14.01(b), belong to and be paid to or at the direction of the I-Bank by the Trustee on demand to the extent the Trustee is so instructed pursuant to an Officer's Certificate.

**Section 7.06 Rebate Fund.** The I-Bank may, but shall not be required to, withdraw and utilize earnings in any Fund, Account or Subaccount, other than the Interest Account and the Principal Account (and any Subaccounts therein) in the Debt Service Fund, to pay into the Rebate Fund any amounts required pursuant to the Code to be set aside for a rebate payment to the Internal Revenue Service or to satisfy a yield restriction requirement, as identified in the Tax Certificate; provided, however, that to the extent any such moneys and Net Earnings thereon on deposit in the Rebate Fund shall not be required for such purposes at the times so identified, all or a portion of such moneys shall be transferred by the Trustee to the Revenue Fund upon the Trustee's receipt of written instructions from an Authorized Officer of the I-Bank to such effect. The Authorized Officer of the I-Bank shall submit to the Trustee a Certificate specifying the Funds, Accounts and/or Subaccounts, and the amount of Net Earnings to be withdrawn therefrom, for the purposes of this Section 7.06, and the Trustee shall be entitled to rely upon each such Certificate in making payments to the I-Bank.

**Section 7.07 Liability for Investments.** Neither the I-Bank nor the Trustee shall have any liability arising out of or in connection with the making of any investment authorized by the provisions of this Article VII, in the manner provided in this Article VII, for any depreciation in value of any such investment, or for any loss, fee, tax or other charge, direct or indirect, resulting from any such investment, reinvestment or liquidation of an investment.

## **ARTICLE VIII. REDEMPTION OF BONDS**

**Section 8.01 Bonds to be Redeemed Only in Manner Provided in Article VIII.** Bonds subject to redemption prior to maturity pursuant hereto or pursuant to a Supplemental Indenture shall be redeemable, in accordance with this Article VIII, at such times, at such Redemption Prices and upon such terms as may otherwise be specified herein or in the Supplemental Indenture authorizing such Series.

Bonds of any maturity which are subject to redemption at the option of the I-Bank shall be called by the Trustee for redemption in the manner provided in this Article VIII upon receipt by the Trustee, at least forty-five (45) days prior to the redemption date, or such lesser number of days as the Trustee may approve, of written notice from an Authorized Officer providing for such redemption. Such written direction shall specify the redemption date and the principal amount of Bonds or portions thereof and their maturities so to be called for redemption, the applicable Redemption Price(s) and the provision or provisions of the applicable Supplemental Indenture pursuant to which such Bonds are to be called for redemption. The foregoing provisions of this Section shall not apply in the case of any redemption of Bonds in accordance with any sinking fund provisions of this Master Indenture or the Supplemental Indenture authorizing such Series, and Bonds shall be called by the Trustee for redemption pursuant to such sinking fund provisions without the necessity of any action by the I-Bank.

In the case of an optional redemption, the notice may state: (a) that it is conditioned upon the deposit of moneys, in an amount equal to the amount necessary to effect the redemption, with the Trustee no later than the redemption date and/or (b) that the I-Bank retains the right to rescind such notice on or prior to the scheduled redemption date (in either case, a “Conditional Redemption”), and such notice and optional redemption shall be of no effect if such moneys are not so deposited or if the notice is rescinded as described in Section 8.03.

Whenever, by the terms of the applicable Supplemental Indenture, Bonds of a Series are required to be redeemed otherwise than at the option of the I-Bank, the Trustee shall select the Bonds to be redeemed, give the notice of redemption and pay out of the moneys available therefor the Redemption Price and interest accrued and unpaid to the redemption date to the appropriate Paying Agent in accordance with the terms of such Supplemental Indenture.

Upon receipt of a notice of redemption of any Borrower Bonds, the Trustee, after the forty-fifth (45<sup>th</sup>) day prior to such redemption date but on or before the thirtieth (30<sup>th</sup>) day prior to such redemption date, shall call for redemption in the manner provided in this Article VIII a like principal amount of Bonds secured by such Borrower Bonds, which Bonds bear the same maturity dates as such Borrower Bonds; provided, however, that the Trustee shall not call any such Bonds for redemption upon receipt, at least forty-five (45) days prior to the redemption date of the Borrower Bonds, of written notice from an Authorized Officer directing the Trustee to not call a like principal amount of the Bonds for redemption.

The moneys necessary for any redemption of Bonds shall be paid to or deposited with the Trustee on or prior to the redemption date. All Bonds called for redemption will cease to bear

interest on the specified redemption date, provided funds sufficient for the redemption of such Bonds in accordance with the Indenture are on deposit with the Trustee. If such moneys are not available on the redemption date, the Bonds or portions thereof will continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

**Section 8.02 Selection of Bonds to be Redeemed.** Unless otherwise provided in the Supplemental Indenture authorizing the issuance of Bonds of a Series:

(a) If less than all of the Bonds of a Series of like maturity shall be called for redemption, the particular Bonds or portions of Bonds of such maturity to be redeemed shall be selected at random by the Trustee in such manner as the Trustee shall determine; provided, however, that the portion of such maturity to be redeemed shall be in the principal amount of the authorized denomination for such Series or an integral multiple thereof, and that, in selecting Bonds for redemption, the Trustee shall treat each Bond as representing that number of Bonds that is obtained by dividing the principal amount of such Bond by the minimum denomination in which Bonds of such Series are authorized to be outstanding after the redemption date.

(b) Notwithstanding the foregoing, in the event of redemption of less than all of an Outstanding Term Bond of like Series, the Trustee shall, at the written direction of an Authorized Officer, redeem, in the authorized denominations for such Series of Bonds, either: (i) a portion of each Sinking Fund Installment of such Term Bond on a Pro Rata Basis - or (ii) all or a portion of one or more Sinking Fund Installments of such Term Bond.

For purposes of this Section 8.02, the lowest denomination in which a Capital Appreciation Bond is authorized to be issued shall be the lowest Accreted Value authorized to be due at maturity on such Bonds, and the lowest denomination in which a Deferred Income Bond is authorized to be issued shall be the lowest Appreciated Value on the Interest Commencement Date authorized for such Bonds.

**Section 8.03 Notice of Redemption.** In the case of any redemption, the Trustee shall give in the name of the I-Bank notice to the Holders of the Bonds, or portions thereof, so called, which notice shall specify: (i) the Bonds to be redeemed which shall be identified by the designation of the Bonds given in accordance with Section 2.01, the maturity dates and interest rates of the Bonds to be redeemed and the date such Bonds were issued; (ii) the numbers and other distinguishing marks of the Bonds to be redeemed, including CUSIP numbers; (iii) the redemption date; (iv) the Redemption Price; (v) with respect to each such Bond, the principal amount thereof to be redeemed; (vi) that, except in the case of Book Entry Bonds, such Bonds shall be redeemed at the Corporate Trust Office of the Trustee giving the address thereof and the telephone number of the Trustee to which inquiries may be directed; and (vii) that no representation is made as to the correctness of the CUSIP number either as printed on the Bonds or as contained in such notice and that an error in a CUSIP number as printed on a Bond or as contained in such notice shall not affect the validity of the proceedings for redemption. Such notice shall further state that, if on such date all conditions to redemption have been satisfied, there shall become due and payable on such date upon each Bond to be redeemed the Redemption Price thereof, together with interest accrued and unpaid thereon to the redemption date, and that, from and after such date, payment having been made or provided for, interest thereon shall cease to accrue.



Any Conditional Redemption may be rescinded in whole or in part at any time prior to the redemption date upon written notice from the I-Bank to the Trustee instructing the Trustee to rescind the redemption notice. The Trustee shall give prompt notice of such rescission to the affected Bondholders. Any Bonds subject to Conditional Redemption where redemption has been rescinded shall remain Outstanding, and the rescission shall not constitute an Event of Default. Further, in the case of a Conditional Redemption, the failure of the I-Bank to make funds available in part or in whole on or before the redemption date shall not constitute an Event of Default, and the Trustee shall give immediate notice to the Depository or the affected Bondholders that the redemption did not occur and that the Bonds called for redemption and not so paid remain Outstanding.

Such notice shall be given by mailing a copy of such notice not less than twenty-five (25) days nor more than forty-five (45) days prior to the redemption date or, in the case of Variable Interest Rate Bonds or Option Bonds, such shorter period as shall be established by the Supplemental Indenture authorizing such Bonds. Such notice shall be sent by first class mail, postage prepaid, to the Holders of the Bonds which are to be redeemed, at their last known addresses, if any, appearing on the registration books not more than ten (10) Business Days prior to the date such notice is given. Upon giving such notice, the Trustee shall promptly certify to the I-Bank that it has mailed or caused to be mailed such notice to the Holders of the Bonds to be redeemed in the manner provided herein. Such certificate shall be conclusive evidence that such notice was given in the manner required hereby. The failure of any Holder of a Bond to be redeemed to receive such notice shall not affect the validity of the proceedings for the redemption of the Bond.

**Section 8.04 Rights of Holders of Bonds Called for Redemption Limited to Redemption Price and Accrued Interest.** Notice having been given as provided in Section 8.03, the Bonds or portions thereof so called for redemption shall become due and payable on the redemption date so designated at the Redemption Price, plus interest accrued and unpaid to the redemption date, upon presentation and surrender of such Bonds (except in the case of Book Entry Bonds), at the office or offices specified in such notice, and, in the case of Bonds presented by other than the Holder thereof, together with a written instrument of transfer duly executed by the Holder or its duly authorized attorney, such Bonds, or portions thereof, shall be paid at the Redemption Price plus interest accrued and unpaid to the redemption date; provided, however, that payment of the Redemption Price may be paid by wire transfer to such Holder if so authorized in the Supplemental Indenture that authorized the Bonds of the Series to be redeemed. If there shall be drawn for redemption less than all of the principal amount of a registered Bond, the I-Bank shall execute and the Trustee shall authenticate and deliver, upon the surrender of such Bond, without charge to the Holder thereof, for the unredeemed balance of the principal amount of the registered Bond so surrendered, Bonds of like Series and maturity in any of the authorized denominations. If, on the redemption date, money for the redemption of all Bonds or portions thereof of any like Series and maturity to be redeemed, together with interest accrued and unpaid thereon to the redemption date, shall be held by the Trustee so as to be available therefor on such date and if notice of redemption shall have been mailed as aforesaid, then, from and after the redemption date, interest on the Bonds or portions thereof so called for redemption shall cease to accrue and such Bonds shall no longer be considered to be Outstanding hereunder. If such money

shall not be so available on the redemption date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

**Section 8.05 Mandatory Tender for Purchase of Bonds in Lieu of Optional Redemption.** Whenever any Bonds are subject to redemption at the option of the I-Bank, the I-Bank may, upon written notice to the Trustee and the delivery of an opinion of Bond Counsel that such action will not adversely affect the tax-exempt status of any Outstanding Bonds, elect to call such Bonds for mandatory tender for purchase in lieu of optional redemption at a purchase price equal to the then applicable Redemption Price of such Bonds. The I-Bank shall give written notice to the Trustee of its election pursuant to this Section 8.05 not less than two (2) Business Days prior to the date on which the Trustee is required to give notice of such mandatory tender for purchase to the Bondholders (or such shorter period as shall be acceptable to the Trustee). The provisions of this Master Indenture or any Supplemental Indenture applicable to the redemption of Bonds at the option of the I-Bank shall also apply to a mandatory tender for purchase of such Bonds in lieu of optional redemption at the I-Bank's election pursuant to this Section 8.05.

## **ARTICLE IX. PARTICULAR COVENANTS**

**Section 9.01 Payment of Bonds.** The I-Bank shall pay or cause to be paid the principal or Redemption Price of and interest on every Bond of each Series on the date, at the place and in the manner provided herein, in the Applicable Supplemental Indenture and in such Bonds, according to the true intent and meaning thereof; provided, however, that the Bonds of each Series are special obligations of the I-Bank, the principal or Redemption Price of and interest on which are payable by the I-Bank solely from the Trust Estate.

The Bonds of each Series shall not be payable from the general funds of the I-Bank and shall not constitute a legal or equitable pledge of, or lien or encumbrance upon, any of the assets or property of the I-Bank or upon any of its income, receipts or revenues, except as provided in this Indenture. The full faith and credit of the I-Bank are not pledged, either expressly or by implication, to the payment of the Bonds. The I-Bank has no taxing power and has no claim on any revenues or receipts of the State of New Jersey or any agency or political subdivision thereof or any Borrower except as expressly provided in a Borrower's Loan Agreement.

**Section 9.02 Observance and Performance of Duties, Covenants, Obligations and Agreements; Representations as to Authorization and Validity of Bonds.** The I-Bank shall faithfully observe and perform at all times all of its duties, covenants, obligations and agreements contained in the Loan Agreements or in any Bond executed, authenticated and delivered pursuant to this Master Indenture and any Supplemental Indenture or in any proceedings of the I-Bank pertaining thereto.

The I-Bank represents and covenants that: (i) it is duly authorized under the Constitution and laws of the State of New Jersey, including, without limitation, the Act, to issue the Bonds of each Series, to enter into each of the Loan Agreements, and to pledge the Trust Estate in the manner and to the extent set forth in this Indenture and as shall be set forth in any Supplemental Indenture; (ii) all action on its part for the issuance of the Bonds of each Series will be duly and effectively

taken; and (iii) the Bonds of each Series held by the Holders thereof will be valid and binding special obligations of the I-Bank enforceable according to their terms.

**Section 9.03 Liens, Encumbrances and Charges.** The I-Bank shall not create or cause to be created and shall not suffer to exist, any lien, encumbrance or charge upon the Trust Estate except the pledge, lien and charge created for the security of Holders of the Bonds. As and to the extent Revenues are received, the I-Bank will cause to be discharged, or will make adequate provision to satisfy and discharge, within sixty (60) days after the same shall accrue, all lawful claims and demands that if unpaid might by law become a lien upon the Trust Estate; and in furtherance of the provisions hereof, the I-Bank may exercise applicable remedies and rights of indemnification provided to it pursuant to the terms of the Applicable Loan Agreement with respect to costs incurred thereby to pay or cause to be discharged, or make provision for, any such lien, encumbrance or charge, as well as the costs of all appropriate legal proceedings; provided, however, that nothing contained in this Section shall require the I-Bank to pay or cause to be discharged, or make provision for, any such lien, encumbrance or charge so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings.

**Section 9.04 Accounts and Audits.** The I-Bank shall keep, or cause to be kept, proper books of records and accounts (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the Loans, this Indenture and any Supplemental Indenture, which books and accounts (at reasonable hours and subject to the reasonable rules and regulations of the I-Bank) shall be subject to the inspection of the Trustee and any Holder of any Bonds or their agents or representatives duly authorized in writing. The I-Bank shall cause such books and accounts to be audited annually by an independent certified public accountant selected by the I-Bank. Annually, not later than 225 days following the conclusion of its Fiscal Year or, if not available as of such date, as soon thereafter as possible, a signed copy of such report shall be furnished by the I-Bank to the Trustee or otherwise be made available. Such report shall include at least: (i) a statement of all funds and accounts (including investments thereof) held by the Trustee pursuant to the provisions of this Indenture; and (ii) a statement of the Revenues and Administrative Fees collected in connection with this Indenture. The Trustee has no obligation to review the contents of such report, shall not be deemed to have knowledge of its contents, and shall receive and hold such report solely for the convenience of the Holders.

**Section 9.05 Further Assurances.** The I-Bank will pass, make, do, execute, acknowledge and deliver any and all such further resolutions, indentures, actions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of the Indenture and for the better assuring and confirming unto the Holders of Bonds the rights and benefits provided in this Indenture, including exercising its State aid intercept powers pursuant to the Act.

**Section 9.06 No Extension of Time of Payment of Bonds.** The I-Bank shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or claims for interest by the purchase or funding of such Bonds or claims for interest or by any other arrangement and, in case the maturity of any of such Bonds or the time for payment of any such claims for interest shall be extended, such Bonds, or claims for interest shall not be entitled, in case of any default hereunder, to the benefit hereof or of any Supplemental Indenture or to any payment out of any assets of the I-Bank or the funds (except funds held in trust for the payment of particular

Bonds or claims for interest pursuant hereto and to any Supplemental Indenture) held by the Trustee, except subject to the prior payment of the principal of all Outstanding Bonds the maturity of which has not been extended and of such portion of the interest on such Bonds as shall not be represented by such extended claims for interest. Nothing herein shall be deemed to limit the right of the I-Bank to issue Option Bonds or Refunding Bonds and such issuance shall not be deemed to constitute an extension of the maturity of the Bonds.

**Section 9.07 Inspection of Bond Register.** At reasonable times and under reasonable regulations that shall have been established by the Trustee, the Bond Register may be inspected and copied by the I-Bank or by the Holders (or a designated representative thereof) of ten percent (10%) or more in principal amount of Bonds then Outstanding such ownership and the authority of any such designated representative to be evidenced to the satisfaction of the Trustee.

**Section 9.08 Enforcement of Loan Agreements.** The I-Bank shall diligently enforce, and take all reasonable steps, actions and proceedings necessary for the enforcement of all terms, covenants and conditions of the Loan Agreements pledged to the Trustee pursuant to a Supplemental Indenture. The I-Bank shall file a duly executed counterpart of such Loan Agreement with the Trustee, and reference is hereby made to the same for a detailed statement of the covenants and obligations of each Borrower and the rights of the I-Bank thereunder. The I-Bank agrees that the Trustee may enforce all rights of the I-Bank and all obligations of each Borrower under such Loan Agreement.

## **ARTICLE X. DEFAULTS AND REMEDIES**

**Section 10.01 Events of Default.** If any one or more of the following events shall occur and be continuing, it is hereby defined as and declared to constitute an “Event of Default”:

- (a) default in the due and punctual payment of any interest on any Bond; or
- (b) default in the due and punctual payment of the principal or Redemption Price of any Bond whether at the stated maturity thereof or on any date fixed for the redemption of such Bond; or
- (c) failure on the part of the I-Bank duly to observe or perform any other of the covenants or agreements on the part of the I-Bank contained in the Indenture or in any Bond for a period of thirty (30) days after the date on which written notice of such failure, requiring the I-Bank to remedy the same, shall have been given to the I-Bank by the Trustee; provided that, if such failure cannot be corrected within such thirty (30) day period, it shall not constitute an Event of Default if corrective action is instituted by the I-Bank within such period and is diligently pursued until the failure is corrected.

**Section 10.02 Remedies.** Upon the occurrence and continuance of any Event of Default, then, subject to the provisions of any Supplemental Indenture, and in every such case, the Trustee in its discretion may, and upon the written request of the Holders of not less than twenty-five percent (25%) in aggregate principal amount of the Senior Bonds in default then Outstanding, or

if no Senior Bonds are then Outstanding, then not less than twenty-five percent (25%) in aggregate principal amount of the Subordinated Bonds in default then Outstanding, shall:

(a) by suit, action or special proceeding, enforce all rights of the Bondholders and require the I-Bank or each Borrower to perform its or their duties under the Act, the Indenture, the Bonds and the Loan Agreements pledged to the Trustee pursuant to this Master Indenture or a Supplemental Indenture;

(b) bring suit upon the Bonds and any Borrower Bonds securing such Bonds which may be in default;

(c) by action or suit in equity, require the I-Bank to account as if it were the trustee of an express trust for the Bondholders; or

(d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the Bondholders.

**Section 10.03 No Acceleration of Maturity.** The Bonds are not subject to acceleration upon an Event of Default hereunder.

**Section 10.04 Effect of discontinuance or abandonment of proceedings.** In case the Trustee shall have proceeded to enforce any right under the Indenture and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee, then and in every such case the I-Bank, the Trustee, each Provider and the Bondholders shall be restored respectively to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Trustee shall continue as though no such proceedings had been taken.

**Section 10.05 Power of Bondholders to direct proceedings.** Anything in the Indenture to the contrary notwithstanding, the Holders of a majority in aggregate principal amount of the Senior Bonds in default then Outstanding, or if no Senior Bonds are then Outstanding, then a majority in aggregate principal amount of the Subordinated Bonds in default then Outstanding, shall have the right, by an instrument in writing executed and delivered to the Trustee, at any time during the continuance of an Event of Default of such Bonds, to direct the time, method and place of conducting all remedial proceedings to be taken by the Trustee hereunder, subject, however, to the provisions of Section 11.04, and provided, however, such direction shall not be in conflict with any provisions of law or of the Indenture. The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in aggregate principal amount of the Senior Bonds in default then Outstanding, or if no Senior Bonds are then Outstanding, then a majority in aggregate principal amount of the Subordinated Bonds in default then Outstanding.

**Section 10.06 Limitation on actions by Bondholders.** No Holder of Bonds in default then Outstanding shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless (a) an Event of Default shall have occurred,

(b) the Holders of a majority in aggregate principal amount of the Senior Bonds in default then Outstanding, or if no Senior Bonds are then Outstanding, then not less than a majority in aggregate principal amount of the Subordinated Bonds in default then Outstanding, shall have made written request to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the remedies hereinbefore granted or to institute such action, suit or proceeding in its own name, (c) the applicable Holders identified in (b) of this paragraph of this section shall have offered to the Trustee reasonable indemnity satisfactory to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request, and (d) the Trustee shall have refused, or for sixty (60) days after receipt of such request and offer of indemnification, shall have failed to exercise the remedies hereinbefore granted, or to institute such action, suit or proceeding in its own name, and such request and offer of indemnity are hereby declared in every case at the option of the Trustee to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder. It is understood and intended that no one or more Holders of the Bonds hereby secured shall have any right in any manner whatever by its or their action to affect, disturb or prejudice the security of the Indenture, or to enforce any right hereunder or under the Bonds, except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Holders of Outstanding Senior Bonds, in accordance with their rights hereunder, and all the Holders of Outstanding Subordinated Bonds in accordance with their rights hereunder, subject, however, to the provisions of Section 9.06. Nothing in the Indenture or in the Bonds contained shall affect or impair the right of action, which is also absolute and unconditional, of any Holder of any Bond to enforce payment of the principal and Redemption Price of, and interest on, its Bond at the respective dates of maturity of each of the foregoing and at the places therein expressed.

**Section 10.07 Trustee's right to enforce rights in respect of Bonds in own name and without possession of Bonds.** All rights of action under the Indenture or under any of the Bonds which are enforceable by the Trustee may be enforced by it without the possession of any of the Bonds to which such rights relate, or the production thereof on the trial or other proceedings relative thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in its name, as Trustee, for the equal and ratable benefit of the Holders of the Bonds to which such suit, action or proceeding relates, subject to the provisions of the Indenture.

**Section 10.08 No remedy herein conferred upon or reserved exclusive.** In accordance with the Act, no remedy herein conferred upon or reserved to the Trustee or to the Holders of the Bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Act or existing at law or in equity or by statute on or after the date of this Master Indenture.

**Section 10.09 No delay or omission to be deemed waiver of default.** No delay or omission of the Trustee or of any Holder of the Bonds to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default, or an acquiescence therein; and every power and remedy given by this Article X to

the Trustee and to the Holders of the Bonds, respectively, may be exercised from time to time as often as may be deemed expedient.

The Trustee may, and upon written request of the Holders of a majority in aggregate principal amount of the Senior Bonds then Outstanding, or if no Senior Bonds are then Outstanding, then a majority in aggregate principal amount of the Subordinated Bonds then Outstanding, shall waive any default which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions hereof or before the completion of the enforcement of any other remedy hereunder; provided, however, that no such waiver shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon.

**Section 10.10 Application of moneys received by Trustee pursuant to Article X.** Any moneys received by the Trustee or by any receiver pursuant to this Article X, shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of any fees, charges, expenses and reimbursements owed to the Trustee, any Paying Agent or their agents in connection with services rendered under the Indenture, be applied, together with any other moneys held by the Trustee under the Indenture, in the following order of priority:

(i) To the payment to the Persons entitled thereto of all installments of interest on the Senior Bonds, and all installments of interest on any Parity Repayment Obligations or any Parity Reimbursement Obligations related to such Senior Bonds which shall become due, and, if the amount available shall not be sufficient to pay in full any particular installment or installments, then to the payment ratably, according to the amounts due on such installment or installments, to the Persons entitled thereto, without any discrimination or preference; and

(ii) To the payment to the Persons entitled thereto of any principal or Redemption Price of any of the Senior Bonds, and any principal or other amount of any Parity Repayment Obligations or any Parity Reimbursement Obligations related to such Senior Bonds, which shall become due (other than Senior Bonds called for redemption or purchase for the payment of which moneys are held pursuant to the provisions of the Indenture) in the order of their due dates, with interest at the rate borne by such Senior Bonds, such Parity Repayment Obligations or such Parity Reimbursement Obligations, as applicable, from the respective dates, upon which they become due and, if the amount available shall not be sufficient to pay such amounts in full, then to the payment ratably, according to the amount of principal due on such date, to the Persons entitled thereto without any discrimination or preference.

(iii) To the payment to the Persons entitled thereto of all installments of interest on the Subordinated Bonds, all installments of interest on any Subordinated Reimbursement Obligations related to such Subordinated Bonds which shall become due, and, if the amount available shall not be sufficient to pay in full any particular installment or installments, then to the payment ratably, according to the amounts due on such installment or installments, to the Persons entitled thereto, without any discrimination or preference;

(iv) To the payment to the Persons entitled thereto of any principal or Redemption Price of any of the Subordinated Bonds, and any principal or other amount of any Subordinated Reimbursement Obligations related to such Subordinated Bonds, which shall become due (other than Subordinated Bonds called for redemption or purchase for the payment of which moneys are held pursuant to the provisions of the Indenture) in the order of their due dates, with interest at the rate borne by such Subordinated Bonds or such Subordinated Reimbursement Obligations, as applicable, from the respective dates, upon which they become due and, if the amount available shall not be sufficient to pay such amounts in full, then to the payment ratably, according to the amount of principal due on such date, to the Persons entitled thereto without any discrimination or preference;

(v) To the I-Bank to the extent of any amounts owed to it under the Loan Agreements pledged to the Trustee pursuant to this Master Indenture or a Supplemental Indenture, which amounts shall be set forth in an Officer's Certificate; and

(vi) The balance released to the I-Bank, free and clear of the lien of the Indenture, to be applied for any lawful purpose of the I-Bank.

Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date any interest on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall give notice to the I-Bank and all Holders, in the manner required by Section 15.06 of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Holder of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

**Section 10.11 Notice of Certain Defaults; Opportunity of I-Bank to Cure Defaults.** Anything herein to the contrary notwithstanding, no Default under Section 10.01(e) hereof shall constitute an Event of Default until actual notice of such Default shall be given to the I-Bank by registered or certified mail by the Trustee or by the Holders of a majority in aggregate principal amount of all Senior Bonds in default then Outstanding, or if no Senior Bonds are then Outstanding, then not less than a majority in aggregate principal amount of the Subordinated Bonds in default then Outstanding, and the I-Bank shall not have corrected the Default or caused the Default to be corrected within thirty (30) days following the giving of such notice; provided, however, that if the Default be such that it is correctable but cannot be corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted by the I-Bank within the applicable period and diligently pursued until the Default is corrected.

The I-Bank hereby grants to the Trustee full authority for the account of the I-Bank to observe or perform any duty, covenant, obligation or agreement alleged in any alleged Default concerning which notice is given to the I-Bank under the provisions of this Section in the name and stead of



the I-Bank with full power to do any and all things and acts to the same extent that the I-Bank could do and perform any such things and acts and with power of substitution.

## **ARTICLE XI. CONCERNING THE FIDUCIARIES**

**Section 11.01 Appointment of Trustee.** The I-Bank hereby appoints Zions Bancorporation, National Association d/b/a Zions Bank as Trustee and, by its execution and delivery of this Master Indenture, Zions Bancorporation, National Association d/b/a Zions Bank signifies its acceptance of the Trust Estate and of the duties and obligations of the Trustee created by this Master Indenture. Subject to the provisions of Section 11.15, the Trustee undertakes to perform such duties as are specifically set forth in this Master Indenture and no implied covenants or obligations shall be read into this Master Indenture or the Loan Agreements against the Trustee. The permissive right of the Trustee to take the actions permitted by this Master Indenture shall not be construed as an obligation or duty to do so. The Trustee shall not be required to give any bond or surety with respect to the performance of its duties or the exercise of its powers under this Master Indenture.

Provided that no Event of Default exists hereunder, and pursuant to Section 11.09 hereof, the I-Bank shall have the right, but not the obligation, to appoint a replacement Trustee every five (5) years, commencing on the fifth anniversary date of the execution and delivery of this Master Indenture, or at such other time as the I-Bank, in its sole discretion, shall determine. Such Trustee shall be appointed pursuant to Sections 11.10 and 11.11 hereof and, in accepting its role as Trustee, shall adhere to the provisions of Section 11.13 hereof.

### **Section 11.02 Responsibility of Fiduciaries.**

(a) The recitals of fact contained herein and in the Bonds shall be taken as the statements of the I-Bank and no Fiduciary assumes any responsibility for the correctness of the same. No Fiduciary makes any representation as to the validity or sufficiency of this Indenture or of any Bonds issued thereunder or as to the security afforded by this Indenture, and no Fiduciary shall incur any liability in respect thereof. The Trustee shall, however, be responsible for its representation contained in its authentication certificate on the Bonds. No Fiduciary shall be under any responsibility or duty with respect to the application of any moneys paid to the I-Bank or to any other Fiduciary. No Fiduciary shall be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in respect thereof, or to advance any of its own moneys, unless properly indemnified to its satisfaction by the Holders of the Outstanding Bonds. Subject to the provisions of paragraph (b) of this Section 11.02, no Fiduciary shall be liable in connection with the observance and performance of its duties and obligations hereunder except for its own negligence, gross negligence or misconduct.

(b) The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and obligations and only such duties and obligations as are specifically set forth in this Indenture. In case an Event of Default has occurred (which has not been cured) the Trustee shall exercise such of the rights and powers invested in it by this Indenture and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of their own

affairs. Any provision of this Indenture relating to action taken or to be taken by the Trustee or to evidence upon which the Trustee may rely shall be subject to the provisions of this Section 11.02.

### **Section 11.03 Evidence Upon Which Fiduciaries May Act.**

(a) Each Fiduciary, upon receipt of any notice, Supplemental Indenture, request, consent, order, certificate, report, opinion, bond or other paper or document furnished to it pursuant to any provision of this Indenture, shall examine such instrument to determine whether it conforms to the requirements of this Indenture and shall be protected in acting upon any such instrument believed by it to be genuine and to have been signed or presented by the proper party or parties. Each Fiduciary may consult with Counsel, who may or may not be counsel to the I-Bank, and the opinion of such Counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it pursuant to this Indenture in good faith and in accordance therewith.

(b) Whenever any Fiduciary shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action pursuant to this Indenture, such matter (unless other evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and established by a Certificate of an Authorized Officer of the I-Bank, and such Certificate shall be full warrant for any action taken or suffered in good faith under the provisions of this Indenture upon the faith thereof; but in its discretion the Fiduciary may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as to it may seem reasonable.

(c) Except as otherwise expressly provided in this Indenture, any request, order, notice, or other direction required or permitted to be furnished pursuant to any provision thereof by the I-Bank to any Fiduciary shall be sufficiently executed in the name of the I-Bank by an Authorized Officer of the I-Bank.

**Section 11.04 No Duty to Take Enforcement Action Unless so Requested.** Unless and until an Event of Default shall have occurred, the Trustee shall be under no obligation to take any action in respect of any default or otherwise, or toward the execution or enforcement of any of the trusts hereby created, or to institute, appear in or defend any suit or other proceeding in connection therewith, unless requested in writing to do so by Holders of not less than a majority in aggregate principal amount of the Senior Bonds then Outstanding, or if no Senior Bonds are then Outstanding, then not less than a majority in aggregate principal amount of the Subordinated Bonds then Outstanding, and if in its opinion such action may involve it in expense or liability, unless furnished, from time to time as often as it may require, with security and indemnity satisfactory to it; but the foregoing provisions are intended only for the protection of the Trustee, and shall not affect any discretion or power given by any provisions of the Indenture to the Trustee to take action in respect of any default without such notice or request from the Bondholders, or without such security or indemnity. The Trustee shall not be required to take any action at the request or direction of a Provider made or given pursuant to Article X unless and until such Provider shall have indemnified and saved the Trustee harmless against any liabilities and all reasonable expenses, charges, counsel fees and expenses and other disbursements, including those of the Trustee's attorneys, agents and employees, incurred in connection with or as a result of taking the action requested or directed by the Provider to be taken.

### **Section 11.05 Right to Rely.**

(a) Each Fiduciary, upon receipt of any notice, Supplemental Indenture, request, consent, order, certificate, report, opinion, bond or other paper or document furnished to it pursuant to any provision of this Indenture, shall examine such instrument to determine whether it conforms to the requirements of this Indenture and shall be protected in acting upon any such instrument believed by it to be genuine and to have been signed or presented by the proper party or parties. Each Fiduciary may consult with Counsel, who may or may not be counsel to the I-Bank, and the opinion of such Counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it pursuant to this Indenture in good faith and in accordance therewith.

(b) Whenever any Fiduciary shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action pursuant to this Indenture, such matter (unless other evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and established by a Certificate of an Authorized Officer of the I-Bank, and such Certificate shall be full warrant for any action taken or suffered in good faith under the provisions of this Indenture upon the faith thereof; but in its discretion the Fiduciary may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as to it may seem reasonable.

(c) Except as otherwise expressly provided in this Indenture, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision thereof by the I-Bank to any Fiduciary shall be sufficiently executed in the name of the I-Bank by an Authorized Officer of the I-Bank.

**Section 11.06 Certain Permitted Acts.** Any Fiduciary may become the Holder of any Bonds, with the same rights it would have if it were not a Fiduciary. To the extent permitted by law, any Fiduciary may act as depositary for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondholders or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this Indenture, whether or not any such committee shall represent the Holders of a majority in principal amount of the Bonds then Outstanding.

### **Section 11.07 [Reserved]**

**Section 11.08 Right to Resign Trust.** The Trustee, or any successor thereof, may at any time resign and be discharged of its duties and obligations hereunder and under each Supplemental Indenture by giving not less than one hundred and twenty (120) days written notice to the I-Bank and each Provider. Written notice of such resignation shall be given by the Trustee to the Registered Holders of the Bonds within ten (10) days after notice is given to the I-Bank. Such notice shall be sent by first class mail, postage prepaid, to the Registered Holders of the Bonds, at their last known addresses, if any, appearing on the registration books. Such resignation shall take effect upon the date specified in such notice; provided, however, that such resignation shall not take effect until a successor Trustee has been appointed and has accepted such appointment pursuant to Section 11.10.

**Section 11.09 Removal of Trustee.** The Trustee, or any successor thereof, may be removed at any time by the Holders of a majority in aggregate principal amount of the Senior Bonds then Outstanding, or if no Senior Bonds are then Outstanding, of Subordinated Bonds then Outstanding, excluding any Bonds held by or for the account of the I-Bank, by an instrument or concurrent instruments in writing signed and acknowledged by such Bondholders or by their attorneys-in-fact duly authorized and delivered to the I-Bank. The Trustee, or any successor thereof, may also be removed at any time for cause or any breach of trust or for acting or proceeding in violation of, or failing to act or proceed in accordance with, any provisions hereof or of any Supplemental Indenture with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon application by the Holders of not less than twenty-five percent (25%) in aggregate principal amount of the Senior Bonds then Outstanding, or if no Senior Bonds are then Outstanding, then not less than twenty-five percent (25%) in aggregate principal amount of the Subordinated Bonds then Outstanding. The Trustee may also be removed by a resolution of the I-Bank at any time, with or without cause, so long as no Event of Default, or an event which, with notice or passage of time, or both, would become an Event of Default, shall have occurred, and be continuing. No removal hereunder shall take effect until a successor Trustee has been appointed and has accepted such appointment pursuant to Section 11.10. A copy of each resolution providing for the removal of the Trustee, or any successor thereof, shall be delivered by the I-Bank to the predecessor Trustee and each Provider.

**Section 11.10 Successor Trustee.** In case the Trustee, or any successor thereof, shall resign or shall be removed or replaced by the I-Bank or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee or of its property shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, the I-Bank shall forthwith appoint a successor Trustee to act as Trustee. Copies of any resolution of the I-Bank providing for any such appointment shall be delivered by the I-Bank to the successor Trustee so appointed and the predecessor Trustee. The I-Bank shall give notice of any such appointment to each Holder of a Bond not later than thirty (30) days after such appointment, or such earlier time as required by a continuing disclosure agreement entered into in connection with the issuance of Bonds, by posting such notice on the MSRB EMMA portal.

**Section 11.11 Qualifications of Successor or Replacement Trustee.** Every successor or replacement Trustee hereunder appointed pursuant to the foregoing provision shall be a bank or trust company with trust powers, organized and doing business under the laws of the United States or any state or territory thereof which has a combined capital and surplus of at least \$75,000,000, in good standing, qualified to do business in the State of New Jersey (to the extent such requirement is applicable to such Trustee), and willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by the Indenture.

**Section 11.12 Court Appointment of Successor Trustee.** In case at any time the Trustee shall resign and no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Article XI within forty-five (45) days of the giving of written notice of resignation in accordance with Section 11.08 or after the occurrence of any other event requiring or authorizing such appointment, each Borrower, the Holder of any Senior Bond, or if no Senior Bonds are then Outstanding, the Holder of any Subordinated Bond, or the retiring Trustee may apply, at the expense of the I-Bank, to any court of competent jurisdiction for the appointment of

a successor Trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor Trustee.

**Section 11.13 Acceptance of Appointment by, and Transfer of Trust Estate to, Successor or Replacement Trustee.** Any successor or replacement Trustee appointed under the provisions of this Article XI shall execute, acknowledge and deliver to its predecessor, and also to the I-Bank, an instrument accepting such appointment, and thereupon such successor, without any further act, deed or conveyance shall become fully vested with all money, estates, properties, rights, powers, duties and obligations of its predecessor hereunder and under each Supplemental Indenture, with like effect as if originally appointed as Trustee. However, the Trustee then ceasing to act shall nevertheless, on request by the I-Bank or of such successor, and upon payment of all amounts owed to it hereunder, execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor all the right, title and interest of such Trustee in and to any property held by it hereunder, and shall pay over, assign and deliver to such successor any moneys or other properties subject to the trusts and conditions set forth herein.

Should any deed, conveyance or instrument in writing from the I-Bank be required by such successor for more fully and certainly vesting in and confirming to it any such money, estates, properties, rights, powers, duties or obligations, any and all such deeds, conveyances and instruments in writing shall, upon request, and so far as may be authorized by law, be executed, acknowledged and delivered by the I-Bank.

**Section 11.14 Successor Trustee by Merger or Consolidation.** Any corporation into which any Trustee hereunder may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which any Trustee hereunder shall be a party, or any corporation to which any Trustee hereunder may transfer substantially all of its corporate trust business, shall be the successor under the Indenture, without the execution or filing of any paper or any further act on the part of the parties to the Indenture anything herein to the contrary notwithstanding.

**Section 11.15 Exercise of Rights and Powers during Event of Default.** Notwithstanding any other provisions of this Article XI, the Trustee shall, during the existence of an Event of Default actually known to the Trustee, exercise such of the rights and powers vested in it by this Master Indenture and use the same degree of skill and care in their exercise as a prudent person would use and exercise under the circumstances in the conduct of its own affairs.

**Section 11.16 [Reserved]**

**Section 11.17 Paying Agents.** The I-Bank hereby appoints Zions Bancorporation, National Association d/b/a Zions Bank as the initial Paying Agent and, by its execution and delivery of this Master Indenture as Trustee, Zions Bancorporation, National Association d/b/a Zions Bank signifies its acceptance of the duties and obligations of the Paying Agent created by this Master Indenture. The I-Bank may at any time or from time to time appoint one or more additional or successor Paying Agents in the manner and subject to the conditions set forth in this Section 11.17. Each additional or successor Paying Agent shall signify its acceptance of the duties

and obligations imposed upon it by this Master Indenture by written instrument of acceptance deposited with the I-Bank and the Trustee.

Each Paying Agent shall be a bank or trust company duly organized under the laws of the United States of America or any state or territory thereof, having a capital stock and surplus aggregating at least \$75,000,000, and willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Master Indenture.

Any Paying Agent may at any time resign and be discharged of the duties and obligations created by this Master Indenture by giving at least sixty (60) days' prior written notice to the I-Bank and the Trustee. Any Paying Agent may be removed at any time by a resolution of the I-Bank filed with such Paying Agent and the Trustee and signed by an Authorized Officer of the I-Bank.

Provided that no Event of Default exists hereunder, and pursuant to this Section 11.17 hereof, the I-Bank shall have the right, but not the obligation, to appoint a replacement Paying Agent every five (5) years, commencing on the fifth anniversary date of the execution and delivery of this Master Indenture, or at such other time as the I-Bank, in its sole discretion, shall determine.

In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any moneys held by it as Paying Agent to its successor, or if there be no successor, to the Trustee. In the event that for any reason there shall be a vacancy in the office of any Paying Agent, the Trustee shall act as the Paying Agent.

**Section 11.18 Exclusion of Bonds.** Bonds owned or held by or for the account of the I-Bank shall not be deemed Outstanding for the purpose of Bondholder Action and the I-Bank shall not be entitled to take Bondholder Action with respect to such Bonds. At the time of any Bondholder Action taken hereunder, the I-Bank shall furnish to the Trustee a Certificate of an Authorized Officer of the I-Bank, upon which the Trustee may rely, describing all Bonds so to be excluded. Bonds owned or held by or for the account of the I-Bank shall be deemed Outstanding for all other purposes of the Indenture.

**Section 11.19 Payments Received by the Trustee.** The Trustee shall notify the I-Bank (i) promptly upon receipt, of all amounts received by the Trustee directly from any Borrower with respect to Borrower Loan Repayments and (ii) within one (1) Business Day of the failure of a Borrower to make any Borrower Loan Repayment on time and in full.

**Section 11.20 Assignment of Loan Agreements or Borrower Bonds.** Except during the continuance of a default under a Loan Agreement or an Event of Default under this Master Indenture, the Trustee shall not sell, assign, transfer, convey or otherwise dispose of its interest, if any, in any such Loan Agreement or in any Borrower Bonds during the term of the applicable Loan Agreement without the express written consent of the I-Bank and the Defaulting Borrower.

**Section 11.21 Inconsistent or Conflicting Requests from Bondholders.** In the event the Trustee receives inconsistent or conflicting requests to take action and indemnity from two or more groups of Holders, each representing less than a majority in aggregate principal amount of the

Bonds Outstanding, the Trustee, in its sole discretion, may determine what action, if any, shall be taken.

**Section 11.22 Compensation; Reimbursement.** The I-Bank shall pay each Fiduciary from time to time reasonable compensation for all services rendered pursuant to this Indenture, including in that limitation the services rendered pursuant to Section 14.01, and also all reasonable expenses incurred in and about the performance of their powers and duties pursuant to this Indenture, and each Fiduciary shall have a lien therefor on any and all funds and accounts at any time held by it pursuant to this Indenture, other than the Project Fund, the Rebate Fund and the C-I Receiving Account within the Cross Investment Fund. Subject to the provisions of this Section 11.22, the I-Bank further agrees to reimburse each Fiduciary to the extent permitted by law for any losses, liabilities and expenses (including reasonable legal fees) which it may incur in the exercise and performance of its powers, duties and obligations hereunder, other than losses, liabilities and expenses (including reasonable legal fees) attributable to the negligence, gross negligence, bad faith, breach of contract or misconduct of the Fiduciary, arising out of or as a result of the Fiduciary performing its obligations pursuant to the Indenture or undertaking any transaction contemplated by the Indenture; provided, however, that the foregoing is subject to the limitations of the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:2-1 et seq. and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq.

While the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq., is not applicable by its terms to claims arising under contracts with the I-Bank, each Fiduciary agrees that such statute (except N.J.S.A. 59:13-9) shall be applicable to all claims against the I-Bank arising under this Section 11.22.

Each Fiduciary agrees as follows:

1. The Fiduciary shall give the I-Bank prompt notice in writing of any actual or potential claim described above and the institution of any suit or action;
2. The Fiduciary shall not adjust, settle or compromise any such claim, suit or action without the approval of I-Bank; and
3. The Fiduciary shall permit the I-Bank, if the I-Bank so chooses, to assume full control of the adjustment, settlement, compromise or defense of each such claim, suit or action.

The reimbursement obligations provided in this Section 11.22 do not apply or extend to any indemnification given by a Fiduciary to any other person.

## **ARTICLE XII. EXECUTION OF INSTRUMENTS BY BONDHOLDERS AND PROOF OF OWNERSHIP OF BONDS**

**Section 12.01 Execution of Instruments; Proof of Ownership of Bonds.** Any request, consent or other instrument which the Indenture may require or permit to be signed and executed by a Holder or Holders of Bonds may be in one or more instruments of similar tenor, and shall be signed or executed by such Holder or Holders of Bonds in person or by its or their attorneys duly

appointed in writing. Proof of the execution of any such instrument, or of an instrument appointing any such attorney, or the holding or owning by any person of such Bonds, shall be sufficient for any purpose hereof (except as otherwise herein expressly provided) if made in the manner set forth below:

(a) The fact and date of the execution by any Bondholder or its attorney of such instrument may be proved by the certificate, which need not be acknowledged or verified, of any officer of a bank or trust company satisfactory to the Trustee or of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which such notary public or other officer purports to act, that the person signing such request or other instrument acknowledged to such notary public or other officer the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. The corporation or the person or persons executing any such instrument on behalf of a corporate Bondholder may be established without further proof if such instrument is signed by a person purporting to be the president or a vice president of such corporation with a corporate seal affixed and attested by a person purporting to be its secretary or an assistant secretary.

(b) The ownership of Bonds shall be proved by the Bond Register.

Nothing contained in this Article XII shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of the matters herein stated which to it may seem sufficient. Any request or consent of the Holder of any Bond shall bind every future Holder of the same Bond, or any Bond issued in exchange or substitution therefor or on registration of transfer thereof, in respect of anything done by the Trustee in accordance therewith.

### **ARTICLE XIII. INDENTURES SUPPLEMENTAL HERETO**

**Section 13.01 Supplemental Indentures Effective upon Filing with the Trustee.** For any one or more of the following purposes, and at any time or from time to time, the I-Bank may, without the consent of the Trustee or Bondholders, execute and deliver a Supplemental Indenture modifying, amending, and supplementing this Indenture which (i) upon the filing with the Trustee of a copy thereof certified by an Authorized Officer and (ii) the delivery of the opinion of Bond Counsel required pursuant to Section 13.06, shall be fully effective in accordance with its terms:

(i) to close this Master Indenture against, or provide limitations and restrictions in addition to the limitations and restrictions contained in this Master Indenture on, the authentication and delivery of Bonds or the issuance of other evidences of indebtedness;

(ii) to add to the duties, covenants and agreements of the I-Bank in this Master Indenture other duties, covenants and agreements to be observed by the I-Bank which are not contrary to or inconsistent with this Master Indenture as theretofore in effect;

(iii) to add to the limitations and restrictions in this Master Indenture other limitations and restrictions to be observed by the I-Bank which are not contrary to or inconsistent with this Master Indenture as theretofore in effect;



(iv) to surrender any right, power or privilege reserved to or conferred upon the I-Bank by the terms of this Master Indenture, but only if the surrender of such right, power or privilege is not contrary to or inconsistent with the covenants and agreements of the I-Bank contained in this Master Indenture;

(v) to authorize Bonds of a Series pursuant to the provisions hereof, including, without limitation, any modifications or amendments to grant to or otherwise secure for the Holders of such Bonds a parity interest in the security granted to the Holders of any then Outstanding Senior Bonds or Subordinated Bonds, as applicable, in accordance with Section 2.03 or Section 2.04 hereof, and to prescribe the terms and conditions pursuant to which such Series of Bonds may be issued, paid or redeemed;

(vi) to subject to the provisions of this Master Indenture additional revenues, properties or collateral or to confirm, as further assurance, any pledge under and the subjection to any lien or pledge created or to be created by, this Master Indenture of any moneys, securities or funds;

(vii) to establish one or more additional Funds, Accounts or Subaccounts, including, without limitation, (A) the establishment of Funds, Accounts or Subaccounts relating to one or more Additional Programs, and any modifications to the flow of funds to the existing Funds, Accounts and Subaccounts hereunder, as the I-Bank determines to be necessary or convenient in connection therewith; (B) the establishment of such Funds, Accounts or Subaccounts for the purpose of providing loans or other financial assistance to Borrowers under any Program other than Loans; or (C) the establishment of such Accounts or Subaccounts of the Debt Service Reserve Fund as the I-Bank determines to be necessary or convenient for securing a Series of Senior Bonds under the Common Reserve Account or an applicable Series Reserve Account, and any modifications to this Master Indenture in order to fund such Accounts or Subaccounts in the amount of the Reserve Requirement;

(viii) to modify any of the provisions of this Master Indenture in order to obtain or maintain any ratings on any Bonds from any Credit Rating Agency;

(ix) to modify any of the provisions of this Master Indenture to permit compliance with any amendment to Section 103 or Sections 141 through 150 of the Code if, in the opinion of Bond Counsel, failure to so modify this Master Indenture would adversely affect the ability of the I-Bank to issue Bonds the interest on which is exempt from federal income taxation; or

(x) to modify any of the provisions of this Master Indenture in any respect whatsoever, provided that (i) such modification shall be, and be expressed to be effective only after all Bonds of any Series Outstanding at the date of the adoption of such Supplemental Indenture shall cease to be Outstanding, and (ii) such modification shall be specifically referred to in the text of all Bonds of any Series authenticated and delivered after the date of the adoption of such Supplemental Indenture and of Bonds issued in exchange therefor or in place thereof.

### **Section 13.02 Supplemental Indentures Effective upon Consent of Trustee.**

(a) For any one or more of the following purposes, and at any time or from time to time, the I-Bank may, with the written consent of the Trustee, execute and deliver a Supplemental Indenture which, upon (i) the filing with the Trustee of a copy thereof certified by an Authorized Officer and (ii) the delivery of the opinion of Bond Counsel required pursuant to Section 13.06, shall be fully effective in accordance with its terms:

(i) to cure any ambiguity, supply any omission or cure or correct any defect or inconsistent provision in this Master Indenture;

(ii) to insert such provisions clarifying matters or questions arising under this Master Indenture as are necessary or desirable and are not contrary to or inconsistent with this Master Indenture as theretofore in effect;

(iii) to provide for additional duties of the Trustee; or

(iv) to modify any of the provisions hereof in any other respect, provided that such modification shall not adversely affect the interests of the Bondholders in any material respect; provided that in making such determination the Trustee shall be entitled to rely on an opinion of Bond Counsel in accordance with Section 13.03.

(b) Any such Supplemental Indenture may also contain one or more of the purposes specified in Section 13.01 and in that event the consent of the Trustee required by this Section shall be applicable only to those provisions of such Supplemental Indenture as shall contain one or more of the purposes set forth in subsection (a) of this Section.

**Section 13.03 Supplemental Indentures Requiring Rating Confirmation.** No Supplemental Indenture executed and delivered pursuant to Section 5.11(b)(2), Section 5.11(c)(2), or Section 5.12(a) shall be effective without the delivery of either a Rating Confirmation or an indicative rating conclusion, or similar determination, from each Credit Rating Agency then maintaining a rating on Bonds issued and Outstanding hereunder to the effect that, should the I-Bank execute and deliver such Supplemental Indenture, and assuming no other significant rating factor changed, such action would likely not result in an adverse change in the then-existing rating on such Bonds.

### **Section 13.04 Powers of Amendment by Supplemental Indenture; Consent of Bondholders.**

(a) Unless otherwise permitted under Section 13.01 or Section 13.02, any modification or amendment of this Master Indenture and of the rights and obligations of the I-Bank and of the Holders of the Bonds thereunder, in any particular, may be made only by a Supplemental Indenture with the written consent (i) of the Holders of not less than two-thirds (2/3) in principal amount of the Senior Bonds Outstanding at the time such consent is given, (ii) in case less than all of the

several Series of Senior Bonds then Outstanding are affected by the modification or amendment, of the Holders of not less than two-thirds (2/3) in principal amount of the Senior Bonds of each Series so affected and Outstanding at the time such consent is given, and (iii) in case the modification or amendment changes the terms of any sinking fund installment, of the Holders of not less than two-thirds (2/3) in principal amount of the Senior Bonds of the particular Series and maturity entitled to such Sinking Fund Installment, and Outstanding at the time such consent is given; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Senior Bonds of any specified like Series and maturity remain Outstanding the consent of the Holders of such Senior Bonds shall not be required and such Senior Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section; and provided further that, if no Senior Bonds are Outstanding, then each reference to Senior Bonds in clauses (i)-(iii) of this Section 13.04(a) shall be deemed to refer to Subordinated Bonds. No such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such obligation, or shall reduce the percentages or otherwise affect the classes of Bonds, the consent of the Holders of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of any Trustee without their written assent thereto. For the purposes of this Section, a Series shall be deemed to be affected by a modification or amendment of this Master Indenture if the same adversely affects or diminishes the rights of the Holders of Bonds of such Series. The Trustee may in its discretion determine whether or not in accordance with the foregoing powers of amendment Bonds of any particular Series or maturity would be affected by any modification or amendment of this Indenture and any such determination shall be binding and conclusive on the I-Bank and all Holders of Bonds. In taking such action, the Trustee may rely upon the opinion of Bond Counsel. For purposes of this Section, the Holders of any Bonds may include the initial Holders thereof, regardless of whether such Bonds are being held for resale.

(b) The I-Bank may at any time adopt a Supplemental Indenture making a modification or amendment permitted by the provisions of this Section 13.04(a) to take effect when and as provided in this Section. A copy of such Supplemental Indenture (or brief summary thereof or reference thereto in form approved by the Trustee), together with a request to Holders of Bonds for their consent thereto in form satisfactory to the Trustee, shall be mailed by the I-Bank to Holders of Bonds (but failure to mail such copy and request shall not affect the validity of the Supplemental Indenture when consented to as in this Section provided). Such Supplemental Indenture shall not be effective unless and until there shall have been filed with the Trustee (i) the written consents of the Holders of the percentages of Outstanding Bonds specified in this Section 13.04, and (ii) the opinion of Bond Counsel required pursuant to Section 13.06. It shall not be necessary that the consents of Holders of Bonds approve the particular form of wording of the proposed modification or amendment or of the proposed Supplemental Indenture effecting such modification or amendment, but it shall be sufficient if such consents approve the substance of the proposed amendment or modification. Each such consent shall be effective only if accompanied by proof of the holding, at the date of such consent, of the Bonds with respect to which such consent is given, which proof shall be such as is permitted by Section 12.01. A Certificate or Certificates executed by the Trustee and filed with the I-Bank stating that it has examined such proof and that such proof is sufficient in accordance with Section 14.02 shall be conclusive that

the consents have been given by the Holders of the Bonds described in such Certificate or Certificates of the Trustee. Any such consent shall be binding upon the Holder of the Bonds giving such consent and, anything in Section 14.02 to the contrary notwithstanding, upon any subsequent Holder of such Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Holder thereof has notice thereof) unless such consent is revoked in writing by the Holder of such Bonds giving such consent or a subsequent Holder thereof by filing with the Trustee, prior to the time when the written statement of the Trustee hereinafter in this Section 13.04 provided for is filed, such revocation and proof that such Bonds are held by the signer of such revocation in the manner permitted by Section 14.02. The fact that a consent has not been revoked may likewise be proved by a Certificate of the Trustee filed with the I-Bank to the effect that no revocation thereof is on file with the Trustee.

At any time after the Holders of the required percentages of Bonds shall have filed their consents to the Supplemental Indenture, the Trustee shall make and file with the I-Bank a written statement that the Holders of such required percentages of such Bonds have filed such consents. Such written statements shall be conclusive that such consents have been so filed. At any time thereafter, notice stating in substance that the Supplemental Indenture (which may be referred to as a Supplemental Indenture adopted by the I-Bank on a stated date, a copy of which is on file with the Trustee) has been consented to by the Holders of the required percentages of Bonds and will be effective as provided in this Section 13.04, may be given to Bondholders by the I-Bank by mailing such notice to Bondholders (but failure to mail such notice shall not prevent such Supplemental Indenture from becoming effective and binding as in this Section 13.04 provided). The I-Bank shall file with the Trustee proof of the mailing thereof. A record, consisting of the certificates or statements required or permitted by this Section 13.04 to be made by the Trustee, shall be proof of the matters therein stated. Such Supplemental Indenture making such amendment or modification shall be deemed conclusively binding upon the I-Bank, the Fiduciaries and the Holders of all Bonds at the expiration of forty (40) days after the filing with the Trustee of the proof of the mailings of such last-mentioned notice, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Indenture in a legal action or equitable proceeding for such purpose commenced within such forty (40) day period; provided, however, that any Fiduciary and the I-Bank during such forty (40) day period and any such further period during which any such action or proceeding may be pending shall be entitled in its sole discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Indenture as it may deem expedient.

**Section 13.05 Consent of Provider.** Whenever by the terms of this Article XIII the consent of any of the Holders of the Bonds to a modification or amendment hereof made by a Supplemental Indenture is required, such modification or amendment shall not become effective until the written consent of each Provider has been obtained; provided, however, that the consent of a Provider which has provided a Credit Facility or a Liquidity Facility shall not be required unless the modification or amendment requires the consent of the Holders of any percentage in principal amount of Outstanding Bonds of a Series in connection with which such Credit Facility or Liquidity Facility was provided. No modification or amendment hereof which adversely affects a Provider shall be made without the written consent thereto of the Provider affected thereby. Notice of the adoption of any such Supplemental Indenture and of the effectiveness of the modification or amendment made thereby shall be given to each Provider by mail at the times and

in the manner provided herein with respect to notices thereof required to be given to the Holders of the Bonds.

**Section 13.06 Execution by Trustee; Delivery of Opinion of Bond Counsel.** Each Supplemental Indenture authorized pursuant to this Article, when filed with the Trustee, shall be accompanied by an opinion of Bond Counsel that such Supplemental Indenture has been duly and lawfully adopted in accordance with the provisions of this Indenture, is authorized or permitted by this Indenture and is valid and binding upon the I-Bank and enforceable in accordance with its terms; provided that such opinion of Bond Counsel may take exception as to the effect of, or for restrictions or limitations imposed by or resulting from bankruptcy, insolvency, debt adjustment, moratorium, reorganization or other similar laws or legal principles affecting creditors' rights generally and general principles of equity and judicial discretion and the valid exercise of the sovereign police powers of the State and of the constitutional power of the United States of America and may state that no opinion is being rendered as to the availability of any particular remedy. The Trustee shall execute any Supplemental Indenture executed and delivered in accordance with this Article; provided that no Supplemental Indenture shall change or modify any of the rights or obligations of any Fiduciary without their written consent thereto.

**Section 13.07 Notation on Bonds.** Bonds delivered after the effective date of any action taken as provided in Article XIII may, and if the Trustee so determines, shall, bear a notation by endorsement or otherwise in form approved by the I-Bank and the Trustee as to such action, and in that case upon demand of the Holder of any Bond Outstanding at such effective date and upon presentation of its Bond for such purpose at the Corporate Trust Office of the Trustee suitable notation shall be made on such Bond by the Trustee as to any such action. If the I-Bank or the Trustee shall so determine, new Bonds so modified as, in the opinion of the Trustee and the I-Bank, conform to such action shall be prepared and delivered, and upon demand of the Holder of any Bond then Outstanding shall be exchanged, without cost to such Bondholder, for Bonds of the same Series and maturity then Outstanding, upon surrender of such Bonds.

**Section 13.08 Amendments to Master Indenture Prior to Issuance of Initial Bonds.** Notwithstanding anything to the contrary contained herein, prior to the issuance of the Initial Bonds hereunder, the I-Bank, at any time or from time to time, may, without having to obtain the consent of any other party, amend any provision of this Master Indenture. Such amendments shall be fully effective upon the filing with the Trustee of a copy thereof certified by an Authorized Officer; provided, however, that no amendment shall be made to the duties and obligations of the Trustee without the Trustee's consent thereto.

**Section 13.09 Mailing.** Any provision in this Article that requires the mailing of a notice or other paper to Holders of Bonds shall be fully complied with if it is mailed, postage prepaid only, to each registered owner of Bonds then Outstanding at their address, if any, appearing upon the registry books of the I-Bank.

## **ARTICLE XIV. DEFEASANCE**

### **Section 14.01 Defeasance.**

(a) If the I-Bank shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of all Bonds of any Series the principal or Redemption Price, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated in the Bonds and in this Master Indenture, then the pledge of the Trust Estate, and all duties, covenants, agreements and other obligations of the I-Bank to the Bondholders of such Series, shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Trustee shall cause an accounting for such period or periods as shall be requested by the I-Bank to be prepared and filed with the I-Bank and, upon the request of the I-Bank, shall execute and deliver to the I-Bank all such instruments as may be desirable to evidence such discharge and satisfaction, and the Trustee shall pay over or deliver to the I-Bank all moneys or securities held by it pursuant to this Indenture which are not required for the payment of principal or Redemption Price, if applicable, and interest due or to become due on Bonds of any Series not theretofore surrendered for such payment or redemption and any amounts owed to any Fiduciary. If the I-Bank shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of any Outstanding Bonds of any Series the principal or Redemption Price, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Indenture, such Bonds shall cease to be entitled to any lien, benefit or security pursuant to this Indenture, and all duties, covenants, agreements and obligations of the I-Bank to the Holders of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied. Notwithstanding any other provision in this Article XIV, all duties, covenants, agreements and obligations of the I-Bank to the Holders relating to the exclusion of interest from gross income of the Holders of such Bonds for federal income tax purposes shall survive the defeasance of the Bonds.

(b) Bonds (which can be an entire series or portion thereof) or interest installments for the payment or redemption of which moneys shall have been set aside and shall be held in trust by the Paying Agents (through deposit by the I-Bank of funds for such payment or redemption or otherwise) at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect expressed in subsection (a) of this Section. Subject to the provisions of subsections (c) through (e) of this Section, Outstanding Bonds of any Series shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in subsection (a) of this Section if (1) in case any of said Bonds are to be redeemed on any date prior to their stated maturities, the I-Bank shall have given to the Trustee instructions in writing accepted by the Trustee to mail notice of redemption of such Bonds (other than Bonds of a Series which have been purchased by the Trustee at the written direction of the I-Bank or purchased or otherwise acquired by the I-Bank and delivered to the Trustee as hereinafter provided prior to the mailing of such notice of redemption) on said date, (2) there shall have been deposited with the Trustee (i) either moneys in an amount which shall be sufficient, or Defeasance Securities (including any Defeasance Securities issued or held in book-entry form on the books of the Department of the Treasury of the United States) the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient to pay when due the principal or Redemption Price, if applicable,

and interest due and to become due on such Series of Bonds on or prior to the redemption date or maturity date thereof, as the case may be, (ii) a defeasance opinion of Bond Counsel, and (iii) a verification report of an independent nationally recognized verification agent as to the matters set forth in clause (i), and (3) in the event such Series of Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the I-Bank shall have given the Trustee in form satisfactory to it instructions to mail, as soon as practicable, a notice to the Holders of such Bonds at their last addresses appearing upon the registry books at the close of business on the last Business Day of the month preceding the month for which notice is mailed that the deposit required by (2) above has been made with the Trustee and that such Series of Bonds are deemed to have been paid in accordance with this Section 14.01 and stating such maturity or redemption date upon which moneys are expected to be available for the payment of the principal or Redemption Price, if applicable, of such Series of Bonds (other than Bonds which have been purchased by the Trustee at the direction of the I-Bank or purchased or otherwise acquired by the I-Bank and delivered to the Trustee as hereinafter provided prior to the mailing of the notice of redemption referred to in clause (1) hereof). Any notice of redemption mailed pursuant to the preceding sentence with respect to any Series of Bonds which constitutes less than all of the Outstanding Bonds of any maturity within a Series shall specify the letter and number or other distinguishing mark of each such Bond. The Trustee shall, as and to the extent necessary, apply moneys held by it pursuant to this Section 14.01 to the retirement of said Bonds in amounts equal to the unsatisfied balances of any Sinking Fund Installments with respect to such Bonds, all in the manner provided in this Master Indenture.

The Trustee shall, if so directed by the I-Bank (i) prior to the maturity date of Bonds deemed to have been paid in accordance with this Section 14.01 which are not to be redeemed prior to their maturity date or (ii) prior to the mailing of the notice of redemption referred to in clause (1) above with respect to any Bonds deemed to have been paid in accordance with this Section 14.01 which are to be redeemed on any date prior to their maturity, apply moneys deposited with the Trustee in respect of such Bonds and redeem or sell Defeasance Securities so deposited with the Trustee and apply the proceeds thereof to the purchase of such Bonds and the Trustee shall immediately thereafter cancel all such Bonds so purchased; provided, however, that the moneys and Defeasance Securities remaining on deposit with the Trustee after the purchase and cancellation of such Bonds shall be sufficient to pay when due the principal or Redemption Price, if applicable, and interest due or to become due on all Bonds in respect of which such moneys and Defeasance Securities are being held by the Trustee on or prior to the redemption date or maturity date thereof, as the case may be. If, at any time (i) prior to the maturity date of Bonds deemed to have been paid in accordance with Section 14.01 which are not to be redeemed prior to their maturity date or (ii) prior to the mailing of the notice of redemption referred to in clause (a) with respect to any Bonds deemed to have been paid in accordance with this Section 14.01 which are to be redeemed on any date prior to their maturity, the I-Bank shall purchase or otherwise acquire any such Bonds and deliver such Bonds to the Trustee prior to their maturity date or redemption date, as the case may be, the Trustee shall immediately cancel all such Bonds so delivered; such delivery of Bonds to the Trustee shall be accompanied by directions from the I-Bank to the Trustee as to the manner in which such Bonds are to be applied against the obligation of the Trustee to pay or redeem Bonds deemed paid in accordance with this Section 14.01. The directions given by the I-Bank to the Trustee referred to in the preceding sentence shall also specify the portion, if any, of such Bonds so purchased or delivered and canceled to be applied against the obligation of the

Trustee to pay Bonds deemed paid in accordance with this Section 14.01 upon their maturity date or dates and the portion, if any, of such Bonds so purchased or delivered and canceled to be applied against the obligation of the Trustee to redeem Bonds deemed paid in accordance with this Section 14.01 on any date or dates prior to their maturity. In the event that on any date as a result of any purchases, acquisitions and cancellations of Bonds as provided in this Section 14.01 the total amount of moneys and Defeasance Securities remaining on deposit with the Trustee under this Section 14.01 is in excess of the total amount which would have been required to be deposited with the Trustee on such date in respect of the remaining Bonds of such Series in order to satisfy clause (2) of this subsection (b) of Section 14.01, the Trustee shall, if requested by the I-Bank, pay the amount of such excess to the I-Bank free and clear of any trust, lien, security interest, pledge or assignment securing said Bonds or otherwise existing pursuant to this Indenture. Except as otherwise provided in this subsection (b) of this Section 14.01, neither Defeasance Securities nor moneys deposited with the Trustee pursuant to this Section nor principal or interest payments on any such Defeasance Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal or Redemption Price, if applicable, and interest on said Bonds; provided that any cash received from such principal or interest payments on such Defeasance Securities deposited with the Trustee, (A) to the extent such cash will not be required at any time for such purpose, shall be paid over to the I-Bank as received by the Trustee, free and clear of any trust, lien or pledge securing said Bonds or otherwise existing pursuant to this Indenture, and (B) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable, be reinvested at the direction of the I-Bank in Defeasance Securities maturing at times and in amounts sufficient to pay when due the principal or Redemption Price, if applicable, and interest to become due on said Bonds on or prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the I-Bank, as received by the Trustee, free and clear of any trust, lien, security interest, pledge or assignment securing said Bonds or otherwise existing pursuant to this Indenture.

(c) For purposes of determining whether Variable Interest Rate Bonds shall be deemed to have been paid prior to the maturity or redemption date thereof, as the case may be, by the deposit of moneys and/or Defeasance Securities in accordance with clause (2) of subsection (b) of this Section 14.01, the interest to come due on such Variable Interest Rate Bonds on or prior to the maturity date or redemption date thereof, as the case may be, shall be calculated at the Maximum Interest Rate permitted by the terms thereof; provided, however, that if on any date, as a result of such Variable Interest Rate Bonds having borne interest at less than such Maximum Interest Rate for any period, the total amount of moneys and Defeasance Securities on deposit with the Trustee for the payment of interest on such Variable Interest Rate Bonds is in excess of the total amount which would have been required to be deposited with the Trustee on such date in respect of such Variable Interest Rate Bonds in order to satisfy clause (2) of subsection (b) of this Section 14.01, the Trustee shall pay the amount of such excess as follows: first, to each Provider to pay the Provider Payments then unpaid, on a Pro Rata Basis, and second, to the I-Bank. The moneys so paid by the Trustee shall be released of any trust, pledge, lien, encumbrance or security interest created hereby.

(d) Option Bonds shall be deemed to have been paid in accordance with clause (2) of subsection (b) of this Section 14.01 only if, there shall have been deposited with the Trustee moneys in an amount which shall be sufficient to pay when due the maximum amount of principal



and Redemption Price of, and interest on, such Bonds which could become payable to the Holders of such Bonds upon the exercise of any options provided to the Holders of such Bonds; provided, however, that if, at the time a deposit is made with the Trustee pursuant to clause (2) of subsection (b) of this Section 14.01, the options originally exercisable by the Holder of an Option Bond are no longer exercisable, such Bond shall not be considered an Option Bond for purposes of this subsection (d). If any portion of the moneys deposited with the Trustee for the payment of the principal and Redemption Price of, and interest on, Option Bonds is not required for such purpose, the Trustee shall, if requested by the I-Bank, pay the amount of such excess as follows: first, to each Provider to pay the Provider Payments then unpaid, on a Pro Rata Basis, and second, to the I-Bank. The moneys so paid by the Trustee shall be released of any trust, pledge, lien, encumbrance or security interest created hereby or by an applicable Supplemental Indenture.

(e) Anything in the Indenture to the contrary notwithstanding, any moneys held by a Fiduciary in trust for the payment and discharge of any of the Bonds which remain unclaimed after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Fiduciary at such date, or after the date of deposit of such moneys if deposited with the Fiduciary after the said date when such Bonds became due and payable, shall, be applied when and as provided in the Uniform Unclaimed Property Act, N.J.S.A. 46:30B-1 et seq., and the Fiduciary shall thereupon be released and discharged with respect thereto and the Bondholders shall have such rights as are provided in said Uniform Unclaimed Property Act. In the event that any other monies remain on deposit in any of the Funds and Accounts in the Indenture one year after the final maturity, defeasance or payment at prior redemption of all Bonds issued under the Indenture, the Trustee shall notify the I-Bank that such monies so remain. The Trustee shall release all such monies to the I-Bank free and clear of the lien of the Indenture; provided, however, that, notwithstanding the foregoing, the Trustee shall not release any such funds to the I-Bank until it shall have received an opinion of Bond Counsel to the effect that such funds may be transferred to the I-Bank without adversely affecting the exclusion of interest on the Bonds from gross income for federal income tax purposes..

#### **Section 14.02 Evidence of Signatures and Ownership of Bonds.**

(a) Any request, consent, revocation of consent or other instrument which this Indenture or any Supplemental Indenture may require or permit to be signed and executed by the Holders of Bonds of any Series may be in one or more instruments of similar tenor and shall be signed or executed by such Holders of Bonds in person or by their attorneys appointed in writing. Proof of the execution of any such instrument, or of any instrument appointing any such attorney, shall be sufficient for any purpose of this Indenture or any Supplemental Indenture (except as otherwise therein expressly provided) if made in the following manner, or in any other manner satisfactory to the Trustee, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable. The fact and date of the execution by any Holder of any Bond or their attorney of such instruments may be proved by a guarantee of the signature thereon by a bank or trust company or by the certificate of any notary public or other officer authorized to take acknowledgments of deeds, that the person signing such request or other instrument acknowledged to such notary public or other officer the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. Where such execution is by an officer of a corporation or association or a member of a partnership,

on behalf of such corporation, association or partnership, such signature guarantee, certificate or affidavit shall also constitute sufficient proof of their authority.

(b) The ownership of Bonds and the amount, numbers and other identification, and date of holding the same shall be proved by the registry books maintained by the Trustee.

(c) Any request or consent by the Holder of any Bond shall bind all future owners of such Bond in respect of anything done or suffered to be done by the I-Bank or any Trustee in accordance therewith.

**ARTICLE XV.  
MISCELLANEOUS**

**Section 15.01 Liability of I-Bank Limited to Trust Estate.** Notwithstanding anything contained in this Master Indenture or in the Bonds, the I-Bank shall not be required to advance any moneys derived from any source other than the Trust Estate for any of the purposes in this Master Indenture, whether for the payment of the principal or Redemption Price of, or interest on, the Bonds or for any other purpose of this Indenture. Nevertheless, the I-Bank may, but shall not be required to, advance for any of the purposes hereof any funds of the I-Bank that may be made available to it for such purposes.

**Section 15.02 Successor Is Deemed Included in All References to Predecessor.** Whenever in this Indenture either the I-Bank or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the duties, covenants, obligations, and agreements contained in this Indenture by or on behalf of the I-Bank or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof, whether so expressed or not.

**Section 15.03 Limitation of Rights to Parties.** Nothing expressed or implied in this Indenture or in the Bonds is intended or shall be construed to give to any person other than the I-Bank, the Trustee, the Paying Agents and the Holders of Bonds any legal or equitable right, remedy or claims under or in respect of this Indenture or any duty, covenant, obligation, agreement, condition or provision therein or herein contained; and all such duties, covenants, obligations, agreements, conditions and provisions are and shall be for the sole and exclusive benefit of the I-Bank, the Trustee, the Paying Agents and the Holders of Bonds.

**Section 15.04 Waiver of Notice.** Whenever in this Indenture the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

**Section 15.05 Destruction of Bonds.** Whenever in this Indenture provision is made for the cancellation by the Trustee and the delivery to the I-Bank of any Bonds, unless otherwise requested in writing the I-Bank, in lieu of such cancellation and delivery, the Trustee shall destroy such Bonds (in the presence of an officer of the I-Bank, if the I-Bank shall so require), and deliver a Certificate of such destruction to the I-Bank.

**Section 15.05 Severability of Invalid Provisions.** If any one or more of the provisions contained in this Indenture or in the Bonds shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Indenture or in the Bonds and such invalidity, illegality or unenforceability shall not affect any other provision of this Indenture, and this Indenture shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The I-Bank hereby declares that it would have entered into this Indenture and each and every section, paragraph, sentence, clause or phrase hereof and authorized the issuance of the Bonds pursuant thereto irrespective of the fact that any one or more sections, paragraphs, sentences, clauses or phrases of this Indenture may be held illegal, invalid or unenforceable.

**Section 15.06 Notices.** Any notices, certificates or other communications required or permitted to be given herein shall be in writing (unless otherwise specifically required or permitted herein) and shall be sufficiently given and shall be deemed given by hand delivery, Electronic Means, or mailed by registered or certified mail, postage prepaid (unless otherwise specifically required or permitted herein) to the I-Bank, the Trustee, and the Paying Agent at the addresses set forth below:

I-Bank: New Jersey Infrastructure Bank  
3131 Princeton Pike  
Building 4, Suite 216  
Lawrenceville, New Jersey 08648  
Attention: Executive Director  
[executivedirector@njib.gov](mailto:executivedirector@njib.gov)

Trustee: Zions Bancorporation, National Association d/b/a Zions Bank  
401 Liberty Avenue, Suite 1729  
Pittsburgh, Pennsylvania 15222  
Attention: Corporate Trust Department

Paying Agent: Zions Bancorporation, National Association d/b/a Zions Bank  
401 Liberty Avenue, Suite 1729  
Pittsburgh, Pennsylvania 15222  
Attention: Corporate Trust Department

The I-Bank, the Trustee, and the Paying Agent may designate any further or different address to which subsequent notices and communications shall be sent by giving notice thereof to the other parties hereto.

**Section 15.07 Disqualified Bonds.** In determining whether the Holders of the requisite aggregate principal amount of Bonds have concurred in any Bondholder Action pursuant to this Indenture, Bonds that are owned or held by or for the account of the I-Bank or any Borrower, or by any other primary or secondary obligor on any Loan Agreement, or by any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the I-Bank or any Borrower or any other primary or secondary obligor on any Loan Agreement, shall be disregarded and deemed not to be Outstanding for the purpose of any such determination. Bonds so owned that have been pledged in good faith may be regarded as Outstanding for the purpose of this Section if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Bonds and that the pledgee is not a person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the I-Bank or any Borrower or any other primary or secondary obligor on any Loan Agreement. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of Counsel shall be full protection to the Trustee.

The determination to be made hereunder by the Trustee with respect to Bonds to be disregarded and deemed not to be Outstanding shall be based upon information that has been brought to the attention of the Trustee. There is no affirmative duty on the part of the Trustee to undertake any investigation in determining Bonds to be disregarded and deemed not to be Outstanding.

**Section 15.08 Funds and Accounts.** Any fund, account or subaccount required by this Indenture to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee, either as a fund, an account or a subaccount, and, for the purposes of such records, any audits thereof and any reports or statements with respect thereto, may be treated either as a fund, an account or a subaccount; but all such records with respect to all such funds, accounts or subaccounts shall at all times be maintained in accordance with generally accepted accounting principles, to the extent practicable, or some other accounting standard recognized by the State or acceptable to the I-Bank.

**Section 15.09 Waiver of Personal Liability.** No member, officer, agent or employee of the I-Bank shall be individually or personally liable for the payment of the principal or Redemption Price of, or interest on, the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof, all such liability, if any, being expressly waived and released by each Holder of Bonds by the acceptance of such Bonds, but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law or by this Indenture.

**Section 15.10 I-Bank Protected in Acting in Good Faith.** In the exercise of the powers of the I-Bank and its members, officers, employees and agents pursuant to this Indenture, the Loan Agreements or any other document executed in connection with the Bonds, the I-Bank shall not be accountable to any Borrower, the Trustee, the Paying Agent, or any Holder for any action taken or omitted by it or its members, officers, employees and agents in good faith and believed by it or them to be authorized or within the discretion or rights or powers conferred.

**Section 15.11 Business Days.** Except as otherwise specifically provided herein, if any date specified herein for the payment of any Bond or the performance of any act shall not be a Business Day at the place of payment or performance, such payment or performance shall be made on the next succeeding Business Day with the same effect as if made on such date, and in case any payment of the principal or Redemption Price of or interest on any Bond shall be due on a date that is not a Business Day, interest on such principal amount shall cease to accrue on the date on which such payment was due if such payment is made on the immediately succeeding Business Day.

**Section 15.12 Counterparts.** This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Both parties hereto may sign the same counterpart or each party hereto may sign a separate counterpart.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the New Jersey Infrastructure Bank has caused this Indenture to be signed in its name by its Authorized Officers, and Zions Bancorporation, National Association d/b/a Zions Bank, in token of its acceptance of the trusts created hereunder, has caused this Indenture to be signed in its corporate name by its duly authorized officer all as of the day and year first above written.

**ATTEST:**

**NEW JERSEY INFRASTRUCTURE BANK**

\_\_\_\_\_  
David E. Zimmer  
Assistant Secretary

By: \_\_\_\_\_  
Robert A. Briant, Jr.  
Chairperson

**ZIONS BANCORPORATION, NATIONAL  
ASSOCIATION d/b/a ZIONS BANK, as  
Trustee**

**ATTEST:**

\_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**[Exhibits]**

## RESOLUTION NO. 22 - 31

### RESOLUTION OF THE NEW JERSEY INFRASTRUCTURE BANK RELATING TO THE TRANSPORTATION BANK DIRECT LOAN PROGRAM

**WHEREAS**, pursuant to Section 5(m) and Section 9(a) of the New Jersey Infrastructure Trust Act, constituting Chapter 334 of the Pamphlet Laws of 1985 of the State of New Jersey (the "State"), as amended and supplemented (N.J.S.A. 58:11B-1 *et seq.*) (the "Act"), the New Jersey Infrastructure Bank, a public body corporate and politic under the laws of the State, created pursuant to the Act (the "I-Bank"), is authorized to make and contract to make loans (each a "Transportation Bank Loan") to Local Government Units, as such term is defined in the Act, authorized to construct, operate and maintain Transportation Projects (as hereinafter defined) (each a "Borrower" or "Project Sponsor" and, collectively, "Borrowers" or "Project Sponsors") in order to finance or refinance a portion of the allowable costs of the acquisition, construction, improvement, repair or reconstruction of all or part of any structure, facility, or equipment, or real or personal property necessary for or ancillary to, one or more "transportation projects", as such term is defined in the Act, (each a "Transportation Project" and, collectively, "Transportation Projects"), which Transportation Projects such Borrowers may lawfully undertake and for which they are authorized by law to borrow funds, subject to such terms and conditions as the I-Bank shall determine to be consistent with the Act and the purposes of the I-Bank; and

**WHEREAS**, pursuant to N.J.S.A. 58:11B(9)(a), the I-Bank may establish loan terms and conditions as it deems necessary in making a Transportation Bank Loan, and each such Transportation Bank Loan shall bear interest at a rate agreed upon by the I-Bank and each respective Borrower; and

**WHEREAS**, prior to, or as an alternative to, the long-term financing of a Transportation Project with the proceeds of Transportation Infrastructure Bonds (as hereinafter defined) from time to time, the Board of Directors of the I-Bank (the "Board"), by official action of the Board, may determine that it is in the financial and/or administrative interests of the I-Bank that a Transportation Project be long-term financed, in whole or in part, and on a temporary or permanent basis, as a so-called direct loan (each a "Transportation Bank Direct Loan") as part of the direct loan initiative of the I-Bank (the "Transportation Bank Direct Loan Program"); and

**WHEREAS**, the I-Bank intends to provide funding to Borrowers for such Transportation Projects through the provision of a Transportation Bank Direct Loan to such Borrowers, and such Transportation Bank Direct Loans to be funded with a combination of (i) amounts appropriated by the New Jersey State Legislature to, or for use by, the I-Bank for deposit into the State Transportation Infrastructure Bank Fund to finance or refinance Transportation Project loans issued from funds in the State Transportation Infrastructure Bank Fund, (ii) interest earned on such funds and any fees charged to Borrowers in connection with such Transportation Bank Loans (together with the previous subparagraph (i) of this clause, the "Available Funds") and (iii) the proceeds of Bonds, as such term is defined in, and issued pursuant to, the Master Indenture of Trust between the I-Bank and Zions Bancorporation, National Association, d/b/a Zions Bank, as Trustee, for the Transportation Program ("Transportation Infrastructure Bonds"); and

**WHEREAS**, the I-Bank has developed criteria for use by the Board for the purpose of identifying a Transportation Project that qualifies for Transportation Bank Direct Loan Program funding, and such criteria (the "Transportation Bank Direct Loan Program Criteria") shall include the following, unless otherwise approved by the Board: (i) each Transportation Bank Direct Loan by the I-Bank to the Borrower shall not exceed \$2,000,000, and (ii) the outstanding aggregate principal amount of all Transportation Bank Direct Loans made by the I-Bank at any time to any one Borrower shall not exceed \$5,000,000; and



**WHEREAS**, once the Board, by official action of the Board, has determined that a Transportation Project qualifies for funding through the Transportation Bank Direct Loan Program, such Project may be financed in whole or in part with the proceeds of a Transportation Bank Direct Loan from the I-Bank, and such Transportation Bank Direct Loan may be financed with Available Funds and/or Transportation Infrastructure Bond proceeds; and

**WHEREAS**, pursuant to the Transportation Bank Direct Loan Program, the long-term rate of interest to be paid by the Project Sponsor to the I-Bank with respect to the repayment of the Transportation Bank Direct Loan shall be calculated in the following manner (the "Interest Rate Calculation"), so as to achieve an objectively determined long-term rate of interest that is reflective of the policy goals as set forth in this Resolution and the market as of the date of closing for the Transportation Bank Direct Loan: either A) the product of 0.5 and the sum of (i) the interest rate as determined, on the date of closing for the Transportation Bank Direct Loan, by the Municipal Market Advisors pursuant to the Thompson Financial TM3 AAA Municipal Market Data (MMD) General Obligation Index for local government units (as such term is defined in the Act) and (ii) 0.75% or, if the Direct Loan closes on the same day that the I-Bank sells public bonds for either the Transportation Bank Program or the Water Bank Program, then B) the product of 0.5 and the I-Bank all-in rate for that bond sale. Further, the Executive Director of the I-Bank shall have the discretion to modify the long-term rate of interest by an amount not to exceed +/- 0.50% to conform to market conditions on the date of closing for the Transportation Direct Loan; and

**WHEREAS**, it is the desire of the Board to approve, as the policy of the I-Bank with respect to the implementation and administration of the Transportation Bank Direct Loan Program, the following (collectively, the "Transportation Bank Direct Loan Program Policy"): the terms and provisions of the Transportation Bank Direct Loan Program as described in the preambles hereto, including, without limitation, (i) the Transportation Bank Direct Loan Program Criteria; and (ii) the Interest Rate Calculation; and

**WHEREAS**, Transportation Bank Direct Loans issued pursuant to the Transportation Bank Direct Loan Program Policy may be refinanced or refunded in whole or in part with the proceeds of future Transportation Infrastructure Bonds; and

**WHEREAS**, notwithstanding the approval hereby of the Transportation Bank Direct Loan Program Policy pursuant to the terms hereof, (i) the granting of any Transportation Bank Direct Loan shall be subject to separate official action of the Board and, when so presented to the Board, (ii) the Board, by the terms of such official action, may elect to deviate from the Transportation Bank Direct Loan Program Policy to the extent expressly identified and authorized in such official action of the Board.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the New Jersey Infrastructure Bank, as follows:

**Section 1.** The recitals of this Resolution are incorporated herein by reference as if set forth at length herein.

**Section 2.** The Board hereby approves, as the policy of the I-Bank with respect to the implementation and administration of the Transportation Bank Direct Loan Program, the Transportation Bank Direct Loan Program Policy as described herein for application to each Transportation Bank Direct Loan made on and subsequent to the effective date of this Resolution.

**Section 3.** Notwithstanding the provisions of Section 2 of this Resolution, if a Transportation Bank Direct Loan meets the Transportation Bank Direct Loan Program Criteria, (i) the granting of any Transportation Bank Direct Loan by the I-Bank pursuant to the Transportation Bank Direct Loan Program and the Transportation Bank Direct Loan Program Policy shall be subject to separate official action of the Board and (ii) at the time of such official action, the Board, by the terms of such official action, may elect to deviate from the Transportation Bank Direct Loan Program Policy to the extent expressly identified and authorized in such official action of the Board.

**Section 4.** The Transportation Bank Direct Loan Program Policy may be further revised by the Board from time to time by means of an amendment to this Resolution.

**Section 5.** This Resolution shall become effective in accordance with the terms of Section 4(i) of the Act (N.J.S.A. 58:11B-4(i)).

Adopted Date: May 12, 2022

Motion Made By: Mr. David Moore

Motion Seconded By: Mr. James McManus

Ayes: 8

Nays: 0

Abstentions: 0

## RESOLUTION NO. 22 - 32

### RESOLUTION CERTIFYING PROJECTS FOR THE NEW JERSEY TRANSPORTATION INFRASTRUCTURE FINANCING PROGRAM

**WHEREAS**, in furtherance of the “New Jersey Transportation Infrastructure Financing Program” (the “Transportation Bank Financing Program”) and pursuant to Sections 5(m) and 9(a) of the New Jersey Infrastructure Trust Act (N.J.S.A. 58:11B-1 *et seq.*) (the "Act"), the New Jersey Infrastructure Bank (the "I-Bank") is authorized to make and contract to make loans to local government units or consortia thereof (collectively, “project sponsors”) to finance the cost of transportation infrastructure projects that they may lawfully undertake and for which they are authorized by law to borrow funds; and

**WHEREAS**, project sponsors have submitted Transportation Bank Financing Program loan applications to finance the allowable costs of their transportation infrastructure projects; and

**WHEREAS**, project sponsors have received Short-term loan funding through the Transportation Bank Construction Financing Program for the projects and it is anticipated project construction will be completed in the next six (6) months; and

**WHEREAS**, project sponsors are eligible to receive long-term financing pursuant to and in an amount not to exceed the amount included in the annual Project Eligibility List pursuant to N.J.S.A. 58:11B-21; and

**WHEREAS**, the New Jersey Legislature has authorized in L. 2021 c. 206, section 5 the expenditure of I-Bank funds for long-term financing of the allowable costs of the projects on the State Fiscal Year (“SFY”) 2022 Project Eligibility List; and

**WHEREAS**, any projects being certified by the Board that do not close in SFY2022 require future appropriation in the applicable State fiscal year to authorize the expenditure of I-Bank funds for long term financing of the allowable costs of the projects and inclusion on the applicable State fiscal year Project Eligibility Lists; and

**WHEREAS**, representatives of the Department of Transportation (“DOT”) and the staff of the I-Bank have reviewed and evaluated these applications in accordance with the provisions of the Act, policy statements relating to the Transportation Bank Financing Program and with the applicable financial plan required by section 22.3 of the Act, advised the I-Bank which of these applications may be deemed complete, and determined the allowable costs which may be financed with I-Bank loans; and

**WHEREAS**, the projects have received Executive Director Certification and DOT concurrence of contract award that they are in conformity with the Act, policy statements relating to the Transportation Bank Financing Program, and with the applicable financial plan.

**NOW THEREFORE BE IT RESOLVED**, that the I-Bank Board of Directors hereby approves the project applications set forth in Appendix A attached hereto and made a part hereof for I-Bank loans subject to certification of the corresponding projects by the Chairperson or Vice-Chairperson or secretary of the I-Bank pursuant to the provisions of L. 2021, c. 206, section 5, or future applicable law, as being in conformity with the provisions of the Act, any policy statements relating to the Transportation Infrastructure Financing Program set forth in the applicable financial plan and adopted pursuant thereto; and

**BE IT FURTHER RESOLVED**, that no project shall be long term financed unless and until the expenditure of I-Bank funds for long-term financing of the allowable costs of the project appears on a Project Eligibility List that is subject to a State appropriation law.

Adopted Date: May 12, 2022

Motion Made By: Mr. Mark Longo

Motion Seconded By: Mr. James McManus

Ayes: 8

Nays: 0

Abstentions: 0

**New Jersey Infrastructure Bank  
Transportation Bank Long-Term Loan Certification (April, 2022)**

#	I-Bank Direct Loan Borrower Information (Open Indenture)			Proposed Long-Term Loan Amount			Outstanding Loans		Pro-Forma Aggregate Exposure	Moody's	S&P	Fitch
	Borrower (Projects)	Pledge Type	PEL Amount	TTF Equity Loan Funds	Non-TTF Loan Funds	Total Proposed Long-Term Loan	Outstanding <sup>1</sup> Borrower L-T Loans	Outstanding <sup>2</sup> Borrower S-T Loans	Total	Rating <sup>3</sup>	Rating <sup>3</sup>	Rating <sup>3</sup>
1	Burlington County (TB0300-001)	GO	3,325,000	3,325,000	-	3,325,000	-	-	3,325,000	Aa1	AA	-
2	Camden County (TB0400-001)	GO	2,500,000	1,793,186	-	1,793,186	-	-	1,793,186	Aa1	AA	-
3	Cape May County (TB0500-007)	GO	10,100,000	10,100,000	-	10,100,000	-	-	10,100,000	Aa1	-	-
4	Essex County (TB0700-003)	GO	2,250,000	1,886,908	-	1,886,908	-	-	1,886,908	Aaa	AA+	AA+
5	Little Silver Borough (TB1325-001, and TB1325-002)	GO	2,850,000	2,850,000	-	2,850,000	-	-	2,850,000	-	Confidential Assessment	-
6	Somerdale Borough (TB0431-001, and TB0431-002)	GO	2,053,550	2,053,550	-	2,053,550	-	-	2,053,550	-	AA-	-
<b>Totals =</b>			<b>23,078,550</b>	<b>22,008,644</b>	<b>-</b>	<b>22,008,644</b>	<b>-</b>	<b>-</b>	<b>22,008,644</b>			

<sup>1</sup> Current outstanding long-term non-TTF and long-term TTF Loans (as of 3/25/2022)

<sup>2</sup> Outstanding short term loan balance on other projects **NOT** included in Transportation Long-Term Loan Certification April 2022

<sup>3</sup> Unless noted, ratings are direct and outlook is stable

## RESOLUTION NO. 22 - 33

### RESOLUTION OF THE NEW JERSEY INFRASTRUCTURE BANK AUTHORIZING DIRECT LOANS TO CERTAIN BORROWERS PARTICIPATING IN THE STATE FISCAL YEAR 2022 NEW JERSEY TRANSPORTATION BANK PROGRAM

**WHEREAS**, pursuant to Section 5(m) and Section 9(a) of the New Jersey Infrastructure Trust Act, constituting Chapter 334 of the Pamphlet Laws of 1985 of the State of New Jersey (the “State”), as amended and supplemented (N.J.S.A. 58:11B-1 *et seq.*) (the “Act”), the New Jersey Infrastructure Bank, a public body corporate and politic under the laws of the State, created pursuant to the Act (the “I-Bank”), is authorized to make and contract to make loans (each, an “I-Bank Loan”) to project sponsors (each, a “Project Sponsor”) to finance a portion of the costs of the respective transportation infrastructure projects thereof (each, a “Project”), which Project Sponsors may lawfully undertake or acquire and for which they are authorized by law to borrow funds, subject to such terms and conditions as the I-Bank shall determine to be consistent with the Act and the purposes of the I-Bank; and

**WHEREAS**, on May 12, 2022, the Board of Directors of the I-Bank (the “Board”) adopted Resolution 22-31 entitled “Resolution of the New Jersey Infrastructure Bank Relating to the Transportation Bank Direct Loan Program” (the “Transportation Bank Direct Loan Policy Resolution”), to provide an alternative to the funding of a Project with proceeds of the I-Bank’s Transportation Infrastructure Bonds, which Transportation Bank Direct Loan Policy Resolution provides that the Board may, by official action thereof, determine that it is in the financial and administrative interests of the I-Bank that a Project be financed as a so-called direct loan (each, a “Transportation Bank Direct Loan”) as part of the direct loan initiative of the I-Bank (the “Transportation Bank Direct Loan Program”); and

**WHEREAS**, the Transportation Bank Direct Loan Policy Resolution sets forth the Transportation Bank Direct Loan Program Criteria (as such term is defined in the Transportation Bank Direct Loan Policy Resolution) for use by the I-Bank for the purpose of identifying a Project that shall be appropriate for funding through the Transportation Bank Direct Loan Program; and

**WHEREAS**, the Transportation Bank Direct Loan Program Criteria include the following: (i) the loan by the I-Bank to the Project Sponsor pursuant to the Transportation Bank Direct Loan Program shall not exceed \$2,000,000; and (ii) the outstanding aggregate principal amount of all Transportation Bank Direct Loans made by the I-Bank at any time to any one Project Sponsor shall not exceed \$5,000,000; and

**WHEREAS**, the Transportation Bank Direct Loan Policy Resolution establishes the rate of interest to be paid by the Project Sponsor to the I-Bank with respect to the repayment of the Transportation Bank Direct Loan; and

**WHEREAS**, the Transportation Bank Direct Loan Policy Resolution requires the granting of any Transportation Bank Direct Loan by the I-Bank pursuant to the Transportation Bank Direct Loan Program and the Transportation Bank Direct Loan Program Policy to be subject to separate official action of the Board and provides that the Board, by the terms of such official action, may elect to deviate from the Transportation Bank Direct Loan Program Policy to the extent expressly identified and authorized in such official action of the Board; and

**WHEREAS**, once the Board, by official action thereof, has determined that a Project qualifies for funding through the Transportation Bank Direct Loan Program, such Project is financed with the proceeds of a Transportation Bank Direct Loan from the I-Bank; and

**WHEREAS**, the Project Sponsors set forth in Schedule I attached hereto (each, a “Transportation Bank Direct Loan Borrower” and, collectively, the “Transportation Bank Direct Loan Borrowers”) have sought financial assistance from the I-Bank in connection with the respective Projects thereof that bear the corresponding numeric designations set forth in Schedule I attached hereto (each, a “Transportation Bank Direct Loan Project” and, collectively, the “Transportation Bank Direct Loan Projects”); and

**WHEREAS**, it is in the administrative interest of the I-Bank to provide to each of the Project Sponsors identified on Schedule I a Transportation Bank Direct Loan; and

**WHEREAS**, each Transportation Bank Direct Loan shall be extended by the I-Bank to each Transportation Bank Direct Loan Borrower, and each Transportation Bank Direct Loan Borrower shall repay its Transportation Bank Direct Loan to the I-Bank, pursuant to the terms and provisions of a loan agreement (each, a “Transportation Bank Direct Loan Agreement” and, collectively, the “Transportation Bank Direct Loan Agreements”), by and between the I-Bank and such Transportation Bank Direct Loan Borrower; and

**WHEREAS**, each Transportation Bank Direct Loan made by the I-Bank to the respective Transportation Bank Direct Loan Borrowers shall exceed the maximum principal amount of \$2,000,000 as established by the Transportation Bank Direct Loan Program and, specifically, the Transportation Bank Direct Loan Program Criteria and, therefore, each Transportation Bank Direct Loan authorized hereby shall deviate from such Transportation Bank Direct Loan Program and, specifically, the Transportation Bank Direct Loan Program Criteria (the “Principal Deviation”); and

**WHEREAS**, it is the desire of the I-Bank, subject to the terms and provisions of the Act, the Transportation Bank Direct Loan Policy Resolution, and this Resolution to authorize (i) each Transportation Bank Direct Loan to the respective Transportation Bank Direct Loan Borrowers in an amount not to exceed the respective State Fiscal Year (“SFY”) 2022 Direct Loan Maximum Amount (all as identified in Schedule I attached hereto and made a part hereof) for the purpose of financing a portion of the cost of the respective Transportation Bank Direct Loan Project thereof (as identified in Schedule I attached hereto and made a part hereof), pursuant to the respective terms and provisions of the respective Transportation Bank Direct Loan Agreement, and (ii) in connection with each such Transportation Bank Direct Loan, the Principal Deviation.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the New Jersey Infrastructure Bank, as follows:

**Section 1.** The recitals of this Resolution are incorporated herein by reference as if set forth at length herein.

**Section 2.** The Board hereby approves the making of each Transportation Bank Direct Loan to the respective Transportation Bank Direct Loan Borrower (as identified in Schedule I attached hereto and made a part hereof), as part of the Transportation Bank Direct Loan Program of the I-Bank, for the purpose of financing a portion of the cost of the respective Transportation Bank Direct Loan Project thereof (as identified in Schedule I attached hereto and made a part hereof), provided that (i) the principal amount of each Transportation Bank Direct Loan shall not exceed the applicable SFY2022 Direct Loan Maximum Amount with respect to each such Transportation Bank Direct Loan Project (as identified in Schedule I attached hereto and made a part hereof), (ii) each Transportation Bank Direct Loan shall be funded solely from the Available Funds, (iii) each Transportation Bank Direct Loan shall comply fully with the provisions of the Act, the Transportation Bank Direct Loan Policy Resolution (except as otherwise provided herein) and this Resolution, (iv) each Transportation Bank Direct Loan shall be made by the I-Bank to the respective Transportation Bank Direct Loan Borrower, and the repayment thereof shall be made by such Transportation Bank Direct Loan Borrower to the I-Bank, pursuant to the terms and provisions of a Transportation Bank Direct Loan Agreement, in substantially the form attached hereto as Exhibit A, and made a part hereof, with such revisions and modifications thereto

as shall be approved by the Chairperson, the Vice Chairperson or the Executive Director of the I-Bank (each, an "Authorized Officer") after consultation with Bond Counsel to the I-Bank and the Office of the Attorney General of the State, such approval to be evidenced by the execution thereof by such Authorized Officer, and (v) the payment of interest on the Transportation Bank Direct Loans shall be calculated pursuant to the Interest Rate Calculation as defined in the Transportation Bank Direct Loan Policy Resolution. In connection with the provisions of the preceding clause (i) and clause (v) of this Section 2, the Board hereby approves the Principal Deviation as a deviation from the terms and provisions of the Transportation Bank Direct Loan Policy Resolution.

**Section 3.** Each Authorized Officer is hereby severally authorized and directed to execute (i) each Transportation Bank Direct Loan Agreement and (ii) any certificates, instruments or documents contemplated therein or otherwise related to the making of the Transportation Bank Direct Loans by the I-Bank to each respective Transportation Bank Direct Loan Borrower.

**Section 4.** Upon execution of each Transportation Bank Direct Loan Agreement by an Authorized Officer, the Secretary and the Assistant Secretary of the I-Bank are each hereby severally authorized and directed, where required, to affix the corporate seal of the I-Bank, and to attest to the signature of such Authorized Officer, thereon and on any certificates, instruments or documents contemplated therein or related thereto and to the making of the Transportation Bank Direct Loan by the I-Bank to such Transportation Bank Direct Loan Borrower.

**Section 5.** Any Authorized Officer is hereby authorized and directed to take such other actions that such Authorized Officer, in his or her respective sole discretion after consultation with Bond Counsel to the I-Bank, and the Office of the Attorney General of the State, as appropriate, deems necessary, convenient or desirable to effect the transactions contemplated hereby.

**Section 6.** This Resolution shall take effect immediately, subject to the provisions of the Act.

Adopted Date: May 12, 2022

Motion Made By: Mr. David Moore

Motion Seconded By: Mr. James McManus

Ayes: 8

Nays: 0

Abstentions: 0



**SCHEDULE I**

**TRANSPORTATION BANK DIRECT LOAN BORROWERS**

<b>Transportation Bank Direct Loan Borrower</b>	<b>Project Number</b>	<b>SFY2022 Direct Loan Maximum Amount *</b>
Burlington County	TB0300-001	\$3,325,000
Camden County	TB0700-003	\$2,500,000
Cape May County	TB0500-007	\$10,100,000
Essex County	TB0700-003	\$2,250,000
Little Silver Borough	TB1325-001	\$454,500
Little Silver Borough	TB1325-002	\$2,391,000

\*Excluding issuance charges and fees

**EXHIBIT A**  
**Transportation Bank Direct Loan Agreement**

**LOAN AGREEMENT**  
**BY AND BETWEEN**  
**NEW JERSEY INFRASTRUCTURE BANK**

**AND**

**[BORROWER NAME]**

**DATED AS OF JUNE 1, 2022**

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[TO BE UPDATED]

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## NEW JERSEY INFRASTRUCTURE BANK LOAN AGREEMENT

**THIS LOAN AGREEMENT**, made and entered into as of the Dated Date (as defined in Schedule A hereto), by and between the NEW JERSEY INFRASTRUCTURE BANK, a public body corporate and politic with corporate succession, and the Borrower (capitalized terms used in this Loan Agreement shall have, unless the context otherwise requires, the meanings ascribed thereto in Section 1.01 hereof);

### WITNESSETH THAT:

**WHEREAS**, the Borrower has, in accordance with the Act and the Regulations, made timely application to the I-Bank for a Loan to finance all or a portion of the Costs of the Project;

**WHEREAS**, the State Legislature, in accordance with Section 20.2 of the Act, has in the form of an appropriations act approved a project eligibility list that includes the Project and that authorizes an expenditure of funds of the I-Bank to finance all or a portion of the Costs of the Project;

**WHEREAS**, the I-Bank has approved the Borrower's application for the Loan to finance all or a portion of the Costs of the Project

**WHEREAS**, the Loan to the Borrower may be funded from one or more sources of funds, including, but not limited to (i) available proceeds of the I-Bank Bonds, and/or (ii) available funds in the Transportation Fund;

**WHEREAS**, as one of the preconditions to the making of the Loan to the Borrower, the I-Bank may require that the Borrower execute, attest and deliver in escrow certain documents, including this Loan Agreement, and produce a validly executed and attested Borrower Bond evidencing said Loan;

**WHEREAS**, the Borrower, in accordance with the Act, the Regulations, and the Borrower Enabling Act, will issue a Borrower Bond to the I-Bank evidencing the Loan at the Loan Closing.

**NOW, THEREFORE**, for and in consideration of the award of the Loan by the I-Bank, the Borrower agrees to complete the Project and to perform under this Loan Agreement in accordance with the conditions, covenants and procedures set forth herein and attached hereto as part hereof, as follows:

## ARTICLE I

### DEFINITIONS

#### SECTION 1.01. Definitions.

(a) The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise, have the following meanings:

“**Act**” means the “New Jersey Infrastructure Trust Act”, constituting Chapter 334 of the Pamphlet Laws of 1985 of the State (codified at N.J.S.A. 58:11B-1 *et seq.*), as the same may from time to time be amended and supplemented.

“**Administrative Fee**” means the annual fee owed by the Borrower to the I-Bank established by, and pursuant to the terms of, the Financial Plan that is in effect at the time of the closing of the Borrower’s Loan, as a percentage of the initial principal amount of the Loan, payable to the I-Bank by the Borrower in accordance with the terms of this Loan Agreement, for services rendered by or on behalf of the I-Bank including loan servicing.

“**Authorized Officer**” (i) in the case of the I-Bank, the Chairperson, Vice-Chairperson, Secretary or Executive Director of the I-Bank, or any other person or persons designated by the Board by resolution to act on behalf of the I-Bank pursuant to the Indenture; the designation of such person or persons shall be evidenced by a written Certificate containing the specimen signature of such person or persons and signed on behalf of the I-Bank by its Chairperson, Vice-Chairperson, Secretary or Executive Director and delivered to the Trustee; and (ii) in the case of a Borrower, any person or persons authorized pursuant to a resolution or ordinance of the governing body of the Borrower to perform any act or execute any document relating to the Loan, the Borrower Bond or this Loan Agreement; the designation of such person or persons shall be evidenced by a certified copy of such resolution or ordinance delivered to the I-Bank and the Trustee.

“**Bond Counsel**” means a law firm appointed or approved by the I-Bank, as the case may be, having a reputation in the field of municipal law whose opinions are generally acceptable by purchasers of municipal bonds.

“**Bond Indenture**” means the Master Indenture of Trust, dated as of [June 1, 2022] entered into by and between the I-Bank and the Trustee as amended and supplemented from time to time by one or more Supplemental Indentures.

“**Bond Resolution**” means the “Resolution of the New Jersey Infrastructure Bank (i) Authorizing the Execution and Delivery of a Master Indenture of Trust with Respect to the Transportation Infrastructure Financing Program; and (ii) Directing any Authorized Officer of the New Jersey Infrastructure Bank to Take Certain Actions in Accordance Therewith” adopted by the Board of Directors of the I-Bank on May 12, 2022, authorizing the execution and delivery of a Master Indenture of Trust which provides for the issuance of the I-Bank Bonds, and any resolutions adopted authorizing Supplemental Indentures as defined in and pursuant to the provisions thereof.

“**Borrower**” means the Local Government Unit that is a party to this Loan Agreement, and its successors and assigns, as further described in Schedule A attached hereto.

**“Borrower Bond”** means the Borrower Bond issued pursuant to the Borrower Enabling Act, authorized, executed, attested and delivered by the Borrower to the I-Bank to evidence and secure the Borrower’s obligations to pay the Loan Repayments and all other amounts due and owing by the Borrower under this Loan Agreement, a specimen of which is attached hereto as Exhibit D and made a part hereof, pursuant to which the power and obligation of the Borrower to make such payments shall be unlimited and for the payment of which the Borrower shall, if necessary, levy or cause to be levied *ad valorem* taxes upon all the taxable property within the jurisdiction of the Borrower without limitation as to rate or amount.

**“Code”** means the Internal Revenue Code of 1986, as the same from time to time be amended and supplemented, including any regulations promulgated thereunder, any successor code thereto and any administrative or judicial interpretations thereof.

**“Costs”** means those costs of the Project that are eligible, reasonable, necessary, allocable to the Project and permitted by generally accepted accounting principles, as shall be determined on a project-specific basis and in accordance with the Act, all as set forth in Exhibit B attached hereto, as the same may be supplemented or amended by subsequent changes to eligible costs as evidenced by a certificate of an Authorized Officer of the I-Bank.

**“DLGS”** means the Division of Local Government Services in the New Jersey Department of Community Affairs.

**“Electronic Means”** means telecopy, facsimile transmission, email transmission or other similar electronic means of communication providing evidence of transmission, including a telephone communication confirmed by any other method set forth in this definition.

**“Event of Default”** means any occurrence or event specified in Section 5.01 hereof.

**“Financial Plan”** means the applicable financial plan approved by the State Legislature in accordance with Section 22.3 of the Act.

**“I-Bank”** means the New Jersey Infrastructure Bank, a public body corporate and politic with corporate succession duly created and validly existing under and by virtue of the Act.

**“I-Bank Bonds”** means bonds authorized pursuant to the Bond Indenture and issued by the I-Bank in order to finance or refinance, among other things, all or a portion of Loans to the Borrower or Other Borrowers.

**“Interest on the Loan”** or **“Interest on the Borrower Bond”** means the sum of (i) the Interest Portion, (ii) the Administrative Fee, (iii) the Loan Origination Fee and (iv) any Late Fees incurred hereunder.

**“Interest Portion”** means that portion of Interest on the Loan or Interest on the Borrower Bond payable hereunder that has been established at Loan Closing (i) as set forth in Exhibit A-2 hereof under the column heading entitled “Interest”, or (ii) with respect to any prepayment of Loan Repayments, interest accrued on any principal amount of any such Loan Repayments to the date of any such Loan Repayments at the rate of interest established at Loan Closing.



**“Late Fee”** means a late fee or late fees owed by a Borrower to the I-Bank with respect to any Loan Repayment that is received by the Trustee later than its due date.

**“Loan”** means the loan made by the I-Bank to the Borrower to finance or refinance a portion of the Costs of the Project pursuant to this Loan Agreement, as further described in Schedule A attached hereto. For all purposes of this Loan Agreement, the amount of the Loan at any time shall be the initial aggregate principal amount of the Borrower Bond, less any amount of such principal amount that has been repaid by the Borrower under this Loan Agreement and less any adjustment made in connection with the expenditure of I-Bank Bond proceeds to finance or refinance all or a portion of the Costs of the Project.

**“Loan Agreement”** means this Loan Agreement, including Schedule A and the Exhibits attached hereto, as it may be supplemented, modified or amended from time to time in accordance with the terms hereof.

**“Loan Closing”** means the date upon which the I-Bank shall fund the Loan and the Borrower shall deliver its fully authorized, executed and attested Borrower Bond, to the I-Bank.

**“Loan Repayments”** means the sum of (i) the Interest Portion, (ii) the Principal Portion, (iii) the Administrative Fee, (iv) the Loan Origination Fee and (iv) any Late Fees incurred hereunder.

**“Loan Term”** means the term of this Loan Agreement provided in Sections 3.01 and 3.03 hereof and in Exhibit A-2 attached hereto and made a part hereof.

**“Local Government Unit”** means a county, municipality, municipal, county or regional transportation authority, or any other political subdivision of the State authorized to construct, operate, or maintain public highways or transportation projects as set forth in the Act.

**“Official Statement”** means the Official Statement, offering memorandum or other disclosure document relating to the issuance of the I-Bank Bonds.

**“Other Borrowers”** means any one or more other Local Government Units authorized to own, construct, operate and maintain Transportation Projects that have entered into Other Loan Agreements with the I-Bank pursuant to which the I-Bank will make Other Loans to such recipients from moneys on deposit in the Project Fund, excluding the Project Loan Account, and/or from available funds in the Transportation Fund.

**“Other Loan Agreements”** means any other loan agreements entered into by and between the I-Bank and one or more of the Other Borrowers pursuant to which the I-Bank will make Other Loans to such Other Borrowers from moneys on deposit in the Project Fund, excluding the Project Loan Account, financed with the proceeds of the I-Bank Bonds, and/or from available funds in the Transportation Fund.

**“Other Loans”** means the loans made by the I-Bank to the Other Borrowers pursuant to the Other Loan Agreements from moneys on deposit in the Project Fund, excluding the Project Loan Account, and/or from available funds in the Transportation Fund.

**“Other Project Loan Accounts”** means, collectively, the project loan accounts

established in the Project Fund on behalf of Other Borrowers.

**“Preliminary Official Statement”** means the Preliminary Official Statement, preliminary offering memorandum or other preliminary disclosure document relating to the issuance of the I-Bank Bonds.

**“Prime Rate”** means the prevailing commercial interest rate announced by the Trustee from time to time in the State as its prime lending rate.

**“Principal Portion”** means (i) the principal amount of the Loan payable at the times and in the amounts set forth on Exhibit A-2 hereto under the column heading entitled “Principal”, or (ii) with respect to any prepayment of Loan Repayments, any principal amount of any such Loan Repayments to the date of any such Loan Repayments at the rate of interest established at Loan Closing.

**“Project”** means the Transportation Project of the Borrower described in Exhibit A-1 attached hereto and made a part hereof, which constitutes a project for which the I-Bank is permitted to make a loan to the Borrower pursuant to the Act, the Regulations, and the Bond Indenture, all or a portion of the Costs of which is being financed or refinanced by the I-Bank through the making of the Loan pursuant to the terms and provisions of this Loan Agreement, and which may be identified with the Project Number specified in Exhibit A-1.

**“Project Completion Date”** shall have the meaning ascribed thereto in Schedule A.

**“Project Fund”** means the Project Fund as defined in and established pursuant to the Bond Indenture.

**“Project Loan Account”** means the Subaccount for the benefit of the Borrower within the applicable Series Account, if any, relating to and established on behalf of the Borrower within the Project Fund in accordance with the Bond Indenture to finance or refinance all or a portion of the Costs of the Project.

**“Regulations”** means (i) the rules and policies of the I-Bank applicable to Transportation Project Loans, including the then-current rules and policies of the I-Bank, including but not limited to the Financial Plan and any proposed regulations, all as may from time to time be amended and supplemented, except as the same may be superseded by regulations promulgated in the New Jersey Administrative Code that conflict with any such rules and policies, and (ii) the rules and regulations of the I-Bank applicable to Transportation Project Loans as now or hereafter promulgated in the New Jersey Administrative Code, as the same may from time to time be amended and supplemented.

**“Reserved Rights”** means the rights of the I-Bank under this Loan Agreement to enforce the remedies herein and to enjoy the benefits of the Borrower’s covenants hereunder, including but not limited to the I-Bank’s right, title and interest in and to the Administrative Fees, the Loan Origination Fee and Late Fees with respect to the Loan. The Reserved Rights may be exercised and enforced by the I-Bank whether or not the Trustee shall have exercised or shall have purported to exercise the rights and remedies provided for in the Bond Indenture, without limiting the obligation of the Trustee to do so.

**“Rule 10b-5”** means 17 CFR 240.10b-5, promulgated by the SEC under the Securities Exchange Act of 1934, as amended or supplemented, including any successor regulation or statute thereto.

**“Rule 15c2-12”** means of 17 CFR 240.15c2-12, promulgated by the SEC under the Securities Exchange Act of 1934, as amended or supplemented, including any successor regulation or statute thereto.

**“SEC”** means the Securities and Exchange Commission.

**“Short-Term Construction Financing Program Loan” or “Short-Term Loan”** means any loan made on or prior to the date of the Loan Closing by the I-Bank to the Borrower pursuant to the short-term Transportation Infrastructure Financing Program of the I-Bank for the purpose of financing all or a portion of the Costs of the Project, and that is outstanding on the date of the Loan Closing; such loan(s), if any, shall be identified and described in Exhibit F attached hereto.

**“State”** means the State of New Jersey.

**“Tax-Exempt Debt Obligations”** means debt obligations the interest on which is excluded from gross income for purposes of federal income taxation under Section 103(a) of the Code.

**“Transportation Fund”** means the State Transportation Infrastructure Bank Fund established pursuant to Section 10.4 of the Act (N.J.S.A. 58:11B-10.4).

**“Transportation Project”** means a “transportation project”, as such term is defined in the Act.

**“Transportation Project Loans”** means loans made by the I-Bank to finance or refinance Transportation Projects.

**“Trustee”** means, initially, Zions Bancorporation, National Association d/b/a Zions Bank, the Trustee appointed by the I-Bank, and its successors or replacements as Trustee under the Bond Indenture.

(b) In addition to the capitalized terms defined in subsection (a) of this Section 1.01, certain additional capitalized terms used in this Loan Agreement shall, unless the context clearly requires otherwise, have the meanings ascribed to such additional capitalized terms in Schedule A attached hereto and made a part hereof.

(c) Except as otherwise defined herein or where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, corporations, agencies and districts. Words importing one gender shall include all genders.

## ARTICLE II

### REPRESENTATIONS AND COVENANTS OF BORROWER

**SECTION 2.01. Representations of Borrower.** The Borrower represents for the benefit of the I-Bank as follows:

(a) Organization and Authority.

(i) The Borrower is a Local Government Unit duly created and validly existing under and pursuant to the Constitution and statutes of the State.

(ii) The officers or officials of the Borrower who are contemporaneously herewith performing or have previously performed any action contemplated in this Loan Agreement either are or, at the time any such action was performed, were the duly appointed or elected officers or officials of such Borrower empowered by applicable State law and, if applicable, authorized by ordinance or resolution of the Borrower to perform such actions. To the extent any such action was performed by an officer or official no longer the duly acting officer or official of such Borrower, all such actions previously taken by such officer or official remain in full force and effect.

(iii) The Borrower has full legal right and authority and all necessary licenses and permits required as of the date hereof to own, operate and maintain the Project, to carry on its activities relating thereto, to execute, attest and deliver this Loan Agreement and the Borrower Bond, to sell the Borrower Bond to the I-Bank, to undertake and complete the Project and to carry out and consummate all transactions contemplated by this Loan Agreement.

(iv) The proceedings of the Borrower's governing body approving this Loan Agreement and the Borrower Bond, authorizing the execution, attestation and delivery of this Loan Agreement and the Borrower Bond, authorizing the sale of the Borrower Bond to the I-Bank and authorizing the Borrower to undertake and complete the Project (collectively, the "Proceedings") were duly published in accordance with all applicable State law, and have been duly and lawfully adopted in accordance with the Borrower Enabling Act and other applicable State law at a meeting or meetings that were duly called pursuant to required public notice and held in accordance with applicable State law and at which quorums were present and acting throughout.

(v) By official action of the Borrower taken prior to or concurrent with the execution and delivery hereof, including, without limitation, the Proceedings, the Borrower has duly authorized, approved and consented to all necessary action to be taken by the Borrower for: (A) the execution, attestation, delivery and performance of this Loan Agreement and the transactions contemplated hereby; (B) the issuance of the Borrower Bond and the sale thereof to the I-Bank upon the terms set forth herein; (C) if applicable, the approval of the inclusion, if such inclusion is deemed necessary in the sole discretion of the I-Bank, in the Preliminary Official Statement and the Official Statement of all statements and information relating to the Borrower set forth in the applicable Appendix or Appendices thereto (the "Borrower Appendices") and any amendment thereof or supplement thereto; and (D) the execution, delivery and due performance of any and all

other certificates, agreements and instruments that may be required to be executed, delivered and performed by the Borrower in order to carry out, give effect to and consummate the transactions contemplated by this Loan Agreement, including, without limitation and if applicable, the designation of the Borrower Appendices portion of the Preliminary Official Statement, if any, as “deemed final” for the purposes and within the meaning of Rule 15c2-12.

(vi) This Loan Agreement and the Borrower Bond have each been duly authorized by the Borrower and duly executed, attested and delivered by Authorized Officers of the Borrower, and the Borrower Bond has been duly sold by the Borrower to the I-Bank and duly issued by the Borrower; and assuming that the I-Bank has all the requisite power and authority to authorize, execute, attest and deliver, and has duly authorized, executed, attested and delivered, this Loan Agreement, and assuming further that this Loan Agreement is the legal, valid and binding obligation of the I-Bank, enforceable against the I-Bank in accordance with its terms, each of this Loan Agreement and the Borrower Bond constitutes a legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its respective terms, except as the enforcement thereof may be affected by bankruptcy, insolvency or other laws or the application by a court of legal or equitable principles affecting creditors’ rights; and

(vii) and the information contained under “Description of Loan” in Exhibit A-2 attached hereto and made a part hereof is true and accurate in all respects.

(b) Full Disclosure. There is no fact that the Borrower has not disclosed to the I-Bank in writing on the Borrower’s application for the Loan or otherwise that materially adversely affects or (so far as the Borrower can now foresee) that will materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the Borrower or the Project, or the ability of the Borrower to make all Loan Repayments and any other payments required under this Loan Agreement or otherwise to observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Borrower Bond.

(c) Pending Litigation. There are no proceedings pending or, to the knowledge of the Borrower, threatened against or affecting the Borrower in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would materially adversely affect (i) the undertaking or completion of the Project, (ii) the properties, activities, prospects or condition (financial or otherwise) of the Borrower or the Project, (iii) the ability of the Borrower to make all Loan Repayments or any other payments required under this Loan Agreement, (iv) the authorization, execution, attestation or delivery of this Loan Agreement or the Borrower Bond, (v) the issuance of the Borrower Bond and the sale thereof to the I-Bank, or (vi) the Borrower’s ability otherwise to observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Borrower Bond, which proceedings have not been previously disclosed in writing to the I-Bank either in the Borrower’s application for the Loan or otherwise.

(d) Compliance with Existing Laws and Agreements. (i) The authorization, execution, attestation and delivery of this Loan Agreement and the Borrower Bond by the Borrower and the sale of the Borrower Bond to the I-Bank, (ii) the observation and performance by the Borrower of its duties, covenants, obligations and agreements hereunder and under the Borrower Bond, (iii) the consummation of the transactions provided for in this Loan Agreement and the Borrower Bond, and (iv) the undertaking and completion of the Project will not (A) other than the lien, charge or

encumbrance created hereby, by the Borrower Bond and by any other outstanding debt obligations of the Borrower that are at parity with the Borrower Bond as to lien on, and source and security for payment thereon from, the general tax revenues of the Borrower, result in the creation or imposition of any lien, charge or encumbrance upon any properties or assets of the Borrower pursuant to, (B) result in any breach of any of the terms, conditions or provisions of, or (C) constitute a default under, any existing ordinance or resolution, outstanding debt or lease obligation, trust agreement, indenture, mortgage, deed of trust, loan agreement or other instrument to which the Borrower is a party or by which the Borrower, the Project or any of its properties or assets may be bound, nor will such action result in any violation of the provisions of the charter or other document pursuant to which the Borrower was established or any laws, ordinances, injunctions, judgments, decrees, rules, regulations or existing orders of any court or governmental or administrative agency, authority or person to which the Borrower, the Project or its properties or operations is subject.

(e) No Defaults. No event has occurred and no condition exists that, upon the authorization, execution, attestation and delivery of this Loan Agreement and the Borrower Bond, the sale of the Borrower Bond to the I-Bank or the receipt of the amount of the Loan, would constitute an Event of Default hereunder. The Borrower is not in violation of, and has not received notice of any claimed violation of, any term of any agreement or other instrument to which it is a party or by which it, the Project or its properties may be bound, which violation would materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the Borrower or the Project or the ability of the Borrower to make all Loan Repayments, to pay all other amounts due hereunder or otherwise to observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Borrower Bond.

(f) Governmental Consent. The Borrower has obtained all permits and approvals required to date by any governmental body or officer for the authorization, execution, attestation and delivery of this Loan Agreement and the Borrower Bond; (i) for the sale of the Borrower Bond to the I-Bank; (ii) for the making, observance and performance by the Borrower of its duties, covenants, obligations and agreements under this Loan Agreement and the Borrower Bond; and (iii) for the undertaking or completion of the Project and the financing or refinancing thereof, including, but not limited to, the approval by DLGS with respect to the issuance by the Borrower of the Borrower Bond to the I-Bank, as required by Section 9a of the Act, and any other approvals required therefor by DLGS. The Borrower has complied with all applicable provisions of law requiring any notification, declaration, filing or registration with any governmental body or officer in connection with the making, observance and performance by the Borrower of its duties, covenants, obligations and agreements under this Loan Agreement and the Borrower Bond or with the undertaking or completion of the Project and the financing or refinancing thereof. No consent, approval or authorization of, or filing, registration or qualification with, any governmental body or officer that has not been obtained is required on the part of the Borrower as a condition to the authorization, execution, attestation and delivery of this Loan Agreement and the Borrower Bond, the sale of the Borrower Bond to the I-Bank, the undertaking or completion of the Project or the consummation of any transaction herein contemplated.

(g) Compliance with Law. The Borrower:

(i) is in compliance with all laws, ordinances, governmental rules and regulations to which it is subject, the failure to comply with which would materially adversely affect (A) the ability of the Borrower to conduct its activities or to undertake or complete the Project, (B) the ability of the Borrower to make the Loan Repayments and to pay all other amounts due hereunder, or (C) the condition (financial or otherwise) of the Borrower or the Project; and

(ii) has obtained all licenses, permits, franchises or other governmental authorizations presently necessary for the ownership of its properties or for the conduct of its activities that, if not obtained, would materially adversely affect (A) the ability of the Borrower to conduct its activities or to undertake or complete the Project, (B) the ability of the Borrower to make the Loan Repayments and to pay all other amounts due hereunder, or (C) the condition (financial or otherwise) of the Borrower or the Project.

(h) Use of Proceeds. The Borrower will apply the proceeds of the Loan from the I-Bank as described in Exhibit B attached hereto and made a part hereof (i) to finance or refinance all or a portion of the Costs of the Borrower's Project; and (ii) where applicable, to reimburse the Borrower for a portion of the Costs of the Borrower's Project, which portion was paid or incurred in anticipation of reimbursement by the I-Bank from proceeds of the Loan and is eligible for such reimbursement under and pursuant to the Regulations, the Code and any other applicable law. All of such costs constitute Costs for which the I-Bank is authorized to make Loans to the Borrower pursuant to the Act and the Regulations.

(i) Preliminary Official Statement. As of the date of the Preliminary Official Statement, if any, the descriptions and information set forth in the Borrower Appendices, if any, contained in the Preliminary Official Statement relating to the Borrower, its operations and the transactions contemplated hereby (1) were "deemed final" by the Borrower for the purposes and within the meaning of Rule 15c2-12 and (2) were true and correct in all material respects, and did not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

(j) Official Statement. The descriptions and information set forth in the Borrower Appendices, if any, contained in the Official Statement, if any, relating to the Borrower, its operations and the transactions contemplated hereby, as of the date of the Official Statement, were and, as of the date of delivery hereof, are true and correct in all material respects, and did not and do not contain any untrue statement of a material fact or omit to state a material fact that is necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

## **SECTION 2.02. Particular Covenants of Borrower.**

(a) Full Faith and Credit Pledge. The Borrower unconditionally and irrevocably pledges its full faith and credit and covenants to exercise its unlimited taxing powers for the punctual payment of the principal and redemption premium, if any, of the Borrower Bond, the Interest on the Borrower Bond and all other amounts due under the Borrower Bond, which Borrower Bond shall secure the Loan Repayments and all other amounts due under this Loan

Agreement according to its terms. The Borrower acknowledges that to assure the continued operation and solvency of the I-Bank, the I-Bank may, pursuant to and in accordance with Section 12a of the Act, require that if the Borrower fails or is unable to pay promptly to the I-Bank in full any Loan Repayments, an amount sufficient to satisfy such deficiency shall be paid by the New Jersey State Treasurer to the I-Bank from State-aid otherwise payable to the Borrower.

(b) Performance Under Loan Agreement; Credit Rating: The Borrower covenants and agrees (i) to comply with all applicable State and federal laws, rules and regulations in the performance of this Loan Agreement; (ii) to maintain the Project in good repair and condition; and (iii) to cooperate with the I-Bank in the observance and performance of the respective duties, covenants, obligations and agreements of the Borrower and the I-Bank under this Loan Agreement; and (iv) to maintain a Credit Rating from a NRRA, which Credit Rating may be a non-public, indicative Credit Rating, (all pursuant to, and as such terms are defined in, the “Credit Policy” of the I-Bank as in effect from time to time) for as long as the remaining aggregate outstanding principal amount of the Borrower Bond and all other bonds issued by the Borrower to the I-Bank is greater than \$2,000,000.

(c) Completion of Project and Provision of Moneys Therefor. The Borrower covenants and agrees (i) to exercise its best efforts in accordance with prudent practice to complete the Project and to accomplish such completion on or before the estimated Project Completion Date set forth in Schedule A hereto and made a part hereof; (ii) to comply with the terms and provisions contained in Exhibit G hereto; and (iii) to provide from its own fiscal resources all moneys, in excess of the total amount of loan proceeds it receives under the Loan required to complete the Project.

(d) Disposition of Project. The Borrower shall not sell, lease, abandon or otherwise dispose of all or substantially all of the Project except on ninety (90) days prior written notice to the I-Bank, and, in any event, shall not so sell, lease, abandon or otherwise dispose of the same unless the following conditions are met: (i) the Borrower shall, in accordance with Section 4.02 hereof, assign this Loan Agreement and the Borrower Bond and its rights and interests hereunder and thereunder to the purchaser or lessee of the Project, and such purchaser or lessee shall assume all duties, covenants, obligations and agreements of the Borrower under this Loan Agreement and the Borrower Bond; and (ii) the I-Bank shall by appropriate action determine, in its sole discretion, that such sale, lease, abandonment or other disposition will not materially adversely affect (A) the I-Bank’s ability to meet its duties, covenants, obligations and agreements under the Bond Indenture, (B) the value of this Loan Agreement or the Borrower Bond as security for the payment of I-Bank Bonds and the interest thereon, or (C) the excludability from gross income for federal income tax purposes of the interest on I-Bank Bonds then outstanding or that could be issued in the future. Otherwise, the Borrower shall prepay the Borrower Bond in its entirety prior to any such sale, lease, abandonment, or other disposition of all or substantially all of the Project.

(e) Exclusion of Interest from Federal Gross Income and Compliance with Code.

For purposes of this subsection, quoted terms shall have the meanings given thereto by Section 148 of the Code, Treasury Regulations §§1.148-1 through 1.148-11, inclusive, and Treasury Regulations §1.150-1, all as may be supplemented or amended, to the extent applicable to the I-Bank Bonds, and any successor Treasury Regulations applicable to the I-Bank Bonds.

(i) The Borrower covenants and agrees that it shall not take any action or omit to take any action that would result in the loss of the exclusion of the interest on any I-Bank Bonds



now or hereafter issued from gross income for purposes of federal income taxation as that status is governed by Section 103(a) of the Code.

(ii) The Borrower shall not take any action or omit to take any action that would cause its Borrower Bond or the I-Bank Bonds (assuming solely for this purpose that the proceeds of the I-Bank Bonds loaned to the Borrower represent all of the proceeds of the I-Bank Bonds) to be “private activity bonds” within the meaning of Section 141(a) of the Code. Accordingly, unless the Borrower receives the prior written approval of the I-Bank, the Borrower shall not (A) permit any of the proceeds of the I-Bank Bonds loaned to the Borrower or the Project financed or refinanced with the proceeds of the I-Bank Bonds loaned to the Borrower to be used (directly or indirectly) in any manner that would constitute “private business use” within the meaning of Section 141(b)(6) of the Code, (B) use (directly or indirectly) any of the proceeds of the I-Bank Bonds loaned to the Borrower to make or finance loans to persons other than “governmental units” (as such term is used in Section 141(c) of the Code), or (C) use (directly or indirectly) any of the proceeds of the I-Bank Bonds loaned to the Borrower to acquire any “nongovernmental output property” within the meaning of Section 141(d)(2) of the Code.

(iii) The Borrower shall not take any action or omit to take any action, and shall not directly or indirectly use or permit the use of any proceeds of the I-Bank Bonds (or amounts replaced with such proceeds) or any other funds, if such action, omission, or use would cause the I-Bank Bonds (assuming solely for this purpose that the proceeds of the I-Bank Bonds loaned to the Borrower represent all of the proceeds of the I-Bank Bonds) to be “arbitrage bonds” within the meaning of Section 148(a) of the Code.

(iv) The Borrower shall not directly or indirectly use or permit the use of any proceeds of the I-Bank Bonds to pay the principal of or the interest or redemption premium on or any other amount in connection with the retirement or redemption of any issue of state or local governmental obligations (“refinancing of indebtedness”), unless the Borrower shall (A) establish to the satisfaction of the I-Bank, prior to the issuance of the I-Bank Bonds, that such refinancing of indebtedness will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on the I-Bank Bonds, and (B) provide to the I-Bank, at the Borrower’s sole cost and expense, an opinion of Bond Counsel to that effect in form and substance satisfactory to the I-Bank, upon which the I-Bank may rely.

(v) The Borrower shall not directly or indirectly use or permit the use of any proceeds of the I-Bank Bonds to reimburse the Borrower for an expenditure with respect to Costs of the Project paid by the Borrower prior to the issuance of the I-Bank Bonds, unless (A) the allocation by the Borrower of the proceeds of the I-Bank Bonds to reimburse such expenditure complies with the requirements of Treasury Regulations §1.150-2 that are necessary in order to enable the reimbursement allocation to be treated as an expenditure of the proceeds of the I-Bank Bonds for purposes of applying Sections 103 and 141-150, inclusive, of the Code, or (B) such proceeds of the I-Bank Bonds will be used for refinancing of indebtedness that was used to pay Costs of the Project or to reimburse the Borrower for expenditures with respect to Costs of the Project paid by the Borrower prior to the issuance of such indebtedness in accordance with a reimbursement allocation for such expenditures that complies with the requirements of Treasury Regulations §1.150-2.

(vi) The Borrower shall not directly or indirectly use or permit the use of any proceeds of the I-Bank Bonds to pay any costs, or refinance any costs, which are not Costs of the

Project that constitute (A) a “capital expenditure,” within the meaning of Treasury Regulations §1.150-1, or (B) interest on the I-Bank Bonds accruing during a period commencing on the date of issuance of the I-Bank Bonds and ending on the date that is the later of (I) three years from the date of issuance of the I-Bank Bonds or (II) one year after the completion date with respect to the Project.

(vii) The Borrower shall not use the proceeds of the I-Bank Bonds (assuming solely for this purpose that the proceeds of the I-Bank Bonds loaned to the Borrower represent all of the proceeds of the I-Bank Bonds) in any manner that would cause the I-Bank Bonds to be considered “federally guaranteed” within the meaning of Section 149(b) of the Code or “hedge bonds” within the meaning of Section 149(g) of the Code.

(viii) The Borrower shall not issue any Tax-Exempt Debt Obligations that (A) are sold at substantially the same time as the I-Bank Bonds and finance or refinance the Loan made to the Borrower, (B) are sold pursuant to the same plan of financing as the I-Bank Bonds and finance or refinance the Loan made to the Borrower, and (C) are reasonably expected to be paid out of substantially the same source of funds as the I-Bank Bonds and finance or refinance the Loan made to the Borrower.

(ix) Neither the Borrower nor any “related party” (within the meaning of Treasury Regulations §1.150-1) shall purchase I-Bank Bonds in an amount related to the Principal Amount of the Loan.

(x) The Borrower shall not issue or permit to be issued obligations that will constitute an “advance refunding” of the Borrower Bond within the meaning of Section 149(d)(5) of the Code without the express written consent of the I-Bank, which consent (i) may only be delivered by the I-Bank if the I-Bank has received notice from the Borrower of such contemplated action no later than ninety (90) days prior to any such contemplated action, and (ii) is in the sole discretion of the I-Bank.

(xi) The Borrower will not invest amounts held in any reserve or replacement fund of the Borrower (within the meaning of Section 148(d)(1) of the Code) that are allocable to the Borrower Bond evidencing the Loan at a yield in excess of the yield on the I-Bank Bonds, all in accordance with the instructions of the I-Bank, except for any period such amounts constitute proceeds of indebtedness of the Borrower the interest on which is excluded from gross income for purposes of federal income taxation and such amounts have not been reallocated to the I-Bank Bonds as “gross proceeds” of the I-Bank Bonds (in accordance with Treasury Regulations §1.148-6(b) or successor Treasury Regulations applicable to the I-Bank Bonds).

(xii) To the extent proceeds of the I-Bank Bonds are to be used to finance, rather than refinance, Costs of the Project, the Borrower covenants that the Borrower will satisfy the requirements of Treasury Regulations §1.148-2(e)(2) for a three (3) year temporary period with respect to such portion of the Loan. Accordingly, the Borrower represents that, based upon all of the objective facts and circumstances in existence on the date of issuance of the I-Bank Bonds, with respect to such portion of the Loan, if any, that is to be used to finance Costs of the Project, (A) within six months of the date of issuance of the I-Bank Bonds used to finance the Project, the Borrower will incur, or will have incurred, a substantial binding obligation to a third party to expend on the Project at least five percent (5%) of such “net sale proceeds” (within the meaning of Treasury Regulations §1.148-1) of the Loan used to finance the Project (treating an obligation as not being binding if it is subject to contingencies within the control of the Borrower, the I-Bank or a “related

party” (within the meaning of Treasury Regulations §1.150-1)), (B) completion of such portion of the Project and the allocation to expenditures of the “net sale proceeds” of the Loan used to finance the Project will proceed with due diligence, and (C) all of the proceeds of the Loan used to finance Costs of the Project and investment earnings thereon will be spent prior to the period ending three (3) years subsequent to the date of issuance of the I-Bank Bonds used to finance the Project. Accordingly, any proceeds of the Loan deposited in the Project Loan Account used to finance the Project will be eligible for the 3-year arbitrage temporary period since the expenditure test, time test and due diligence test, as set forth in Treasury Regulations §1.148-2(e)(2), will be satisfied.

(xiii) Computed as of the issue date of the I-Bank Bonds that are issued to finance or refinance Costs of the Project, the weighted average maturity of the Loan does not exceed 120% of the average reasonably expected economic life of the Project financed or refinanced with the BP Portion, determined in the same manner as under Section 147(b) of the Code. Accordingly, the term of the Loan will not be longer than is reasonably necessary for the governmental purposes of the Loan within the meaning of Treasury Regulations §1.148-1(c)(4).

(xiv) The Borrower shall not enter into any service contracts (including management contracts) with respect to any portion of the Project financed by the I-Bank Bonds unless (A) the Borrower delivers an opinion of Bond Counsel, in form and substance satisfactory to the I-Bank, to the effect that the entering into of such contract or contracts by the Borrower will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on the I-Bank Bonds, and (B) such contract is with a “governmental unit” (within the meaning of Section 141 of the Code) or, if such contract is not with a “governmental unit”, such contract either (i) meets a safe harbor as set forth in Rev. Proc. 2017-13, (ii) was entered into before August 18, 2017 and is not materially amended or modified after that date, and meets a safe harbor set forth in Rev. Proc. 97-13, 1997-1 C.B. 632, as modified by Rev. Proc. 2001-39; 2001-2 C.B. 38, and amplified by Notice 2014-67, or (iii) meets a safe harbor contained in any successor guidance from the Internal Revenue Service.

(xv) The Borrower shall, within thirty (30) days of date the Borrower concludes that no additional proceeds of the Loan will be required to pay Costs of the Project, provide to the I-Bank a certificate of the Borrower evidencing such conclusion.

(f) Maintenance of Project. The Borrower covenants and agrees that it shall (i) at all times maintain the Project in good repair and working order, and (ii) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to the Project, all in accordance with prudent practices for the Project.

(g) Records and Accounts.

For purposes of this subsection, quoted terms shall have the meanings given thereto by Section 148 of the Code, Treasury Regulations §§1.148-1 through 1.148-11, inclusive, and Treasury Regulations §1.150-1, all as may be supplemented or amended, to the extent applicable to the I-Bank Bonds, and any successor Treasury Regulations applicable to the I-Bank Bonds.

(i) Borrower shall keep accurate records and accounts for the Project (the “Project Records”) separate and distinct from its other records and accounts (the “General Records”). Such Project Records shall be audited annually by an independent registered municipal accountant or certified public accountant, which may be part of the annual audit of the General Records of the Borrower. Such Project Records and General Records shall be made available for inspection by the I-Bank at any reasonable time upon prior written notice, and a copy of such annual audit(s) therefor, including all written comments and recommendations of such accountant, shall be furnished to the I-Bank within 150 days of the close of the Borrower’s fiscal year being so audited, or such additional period of time as shall be consented to by an Authorized Officer of the I-Bank in the sole and absolute discretion thereof, subject to the application of applicable law relating to such additional period of time for the Borrower to complete its audit.

(ii) Within thirty (30) days following receipt of any Loan proceeds, including without limitation the “Allowance for Administrative Costs” or the “Allowance for Planning and Design” set forth in Exhibit B hereto, the Borrower shall allocate such proceeds to expenditures in a manner that satisfies the requirements of Treasury Regulation §1.148 6(d) and transmit a copy of each such allocation to the I-Bank. No portion of the Allowance for Administrative Costs shall be allocated to a cost other than a cost described in the Regulations and no portion of the Allowance for Administrative Costs shall be paid on a date later than the 180th day after the Loan Closing. No portion of the Allowance for Planning and Design shall be allocated to a cost other than a cost described in the Regulations, or other costs of the Project which are “capital expenditures,” within the meaning of Treasury Regulations §1.150-1. The Borrower shall retain records of such allocations at least until the date that is three years after the scheduled maturity date of the I-Bank Bonds. The Borrower shall make such records available to the I-Bank within fifteen (15) days of any request by the I-Bank. Notwithstanding any other provision contained in this Loan Agreement to the contrary, any requisition of Loan proceeds from the Allowance for Administrative Costs must be submitted within ninety (90) days of the Loan Closing.

(iii) Unless otherwise advised in writing by the I-Bank, in furtherance of the covenant of the Borrower contained in subsection (e)(iii) of this Section 2.02 not to cause the I-Bank Bonds to be arbitrage bonds, the Borrower shall keep, or cause to be kept, accurate records of each investment it makes in any “nonpurpose investment” acquired with, or otherwise allocated to, “gross proceeds” of the I-Bank Bonds not held by the Trustee and each “expenditure” it makes allocated to “gross proceeds” of the I-Bank Bonds. For each such “nonpurpose investment”, such records shall include the purchase price, including any constructive “payments” (or in the case of a “payment” constituting a deemed acquisition of a “nonpurpose investment” (e.g., a “nonpurpose investment” first allocated to “gross proceeds” of the I-Bank Bonds after it is actually acquired because it is deposited in a sinking fund for the I-Bank Bonds)), the “fair market value” of the “nonpurpose investment” on the date first allocated to the “gross proceeds” of the I-Bank Bonds, nominal interest rate, dated date, maturity date, type of property, frequency of periodic payments, period of compounding, yield to maturity, the amount actually or constructively received on disposition (or in the case of a “receipt” constituting a deemed disposition of a “nonpurpose investment” (e.g., a “nonpurpose investment” that ceases to be allocated to the “gross proceeds” of the I-Bank Bonds because it is removed from a sinking fund for the I-Bank Bonds)), the “fair market value” of the “nonpurpose investment” on the date it ceases to be allocated to the “gross proceeds” of the I-Bank Bonds, the purchase date and disposition date of the “nonpurpose investment”, and evidence of the “fair market value” of such property on the purchase date and

disposition date (or deemed purchase or disposition date). The purchase date, disposition date and the date of determination of “fair market value” shall be the date on which a contract to purchase or sell the “nonpurpose investment” becomes binding, i.e., the trade date rather than the settlement date. For the purposes of calculating purchase price and calculating amounts received or constructively received on disposition, brokerage commissions, selling commissions, administrative expenses and similar expenses shall not increase the purchase price of an item and shall not reduce the amount actually or constructively received upon disposition of an item, except to the extent such costs constitute “qualified administrative costs”.

(iv) Within thirty (30) days of the last day of the fifth and each succeeding fifth “bond year” (which, unless otherwise advised by the I-Bank, shall be the five-year period ending on the date five years subsequent to the date immediately preceding the date of issuance of the I-Bank Bonds and each succeeding fifth “bond year”) and within thirty (30) days of the date the last bond that is part of the I-Bank Bonds is discharged (or on any other periodic basis requested in writing by the I-Bank), the Borrower shall (A) calculate, or cause to be calculated, the “rebate amount” as of the “computation date” or “final computation date” attributable to any “nonpurpose investment” made by the Borrower and (B) remit the following to the I-Bank: (1) an amount of money that when added to the “future value” as of the “computation date” of any previous payments made to the I-Bank on account of rebate equals the “rebate amount”, (2) the calculations supporting the “rebate amount” attributable to any “nonpurpose investment” made by the Borrower allocated to “gross proceeds” of the I-Bank Bonds, and (3) any other information requested by the I-Bank relating to compliance with Section 148 of the Code (e.g., information related to any “nonpurpose investment” of the Borrower for purposes of application of the “universal cap”)

(v) The Borrower covenants and agrees that it will account for “gross proceeds” of the I-Bank Bonds, investments allocable to the I-Bank Bonds and expenditures of “gross proceeds” of the I-Bank Bonds in accordance with Treasury Regulations §1.148-6. All allocations of “gross proceeds” of the I-Bank Bonds to expenditures will be recorded on the books of the Borrower kept in connection with the I-Bank Bonds no later than 18 months after the later of the date the particular Costs of the Project are paid or the date the portion of the Project financed by the I-Bank Bonds (i.e., the portion of the Project financed with proceeds of I-Bank Bonds) is placed in service. All allocations of proceeds of the I-Bank Bonds to expenditures will be made no later than the date that is 60 days after the fifth anniversary of the date the I-Bank Bonds are issued or the date 60 days after the retirement of the I-Bank Bonds, if earlier. Such records and accounts will include the particular Costs paid, the date of the payment and the party to whom the payment was made.

(vi) From time to time as directed by the I-Bank, the Borrower shall provide to the I-Bank a written report demonstrating compliance by the Borrower with the provisions of Section 2.02(e) of this Loan Agreement, each such written report to be submitted by the Borrower to the I-Bank in the form of a full and complete written response to a questionnaire provided by the I-Bank to the Borrower, such written report to be submitted to the I-Bank within thirty (30) days of the I-Bank’s request for same. Each such questionnaire shall be provided by the I-Bank to the Borrower not less than fourteen (14) days prior to the date established by the I-Bank for receipt from the Borrower of the full and complete written response to the questionnaire.

(h) Inspections; Information. The Borrower shall permit the I-Bank and the Trustee (and any party designated by either of such parties to act on its behalf or to assist it, including,

without limitation, their respective professional advisors), at any and all reasonable times during construction of the Project and, thereafter, upon prior written notice, (i) to visit, inspect and examine the property constituting the Project and the site on which the Project is located, and (ii) to inspect (and make and retain copies of) any Borrower accounts, books, records, correspondence and files, including, without limitation, Borrower records regarding contracts, receipts, disbursements, investments and the overall financial standing of the Borrower, and any other matters related to the Borrower, the Project and the foregoing list of deliverables. In furtherance of the intent of this subsection, the Borrower shall promptly prepare and provide such written reports and informational summaries as the I-Bank or the Trustee may reasonably require, such written reports and informational summaries to be provided by the Borrower within thirty (30) days of the date of the request for same.

(i) Insurance. The Borrower shall maintain or cause to be maintained, in force, insurance policies with responsible insurers or self-insurance programs providing against risk of direct physical loss, damage or destruction of, or to, the Project, at least to the extent that similar insurance is typically carried, and considered commercially reasonable, in connection with constructing and maintaining projects of the nature of the Project, including liability coverage, all to the extent available at reasonable cost, but in no case less than will satisfy all regulatory requirements applicable to the Borrower and the Project.

(j) Costs of Project. The Borrower certifies that the construction cost of the Project, as listed in Exhibit B hereto and made a part hereof, is a reasonable and accurate estimation thereof, and it will supply to the I-Bank a certificate from a licensed professional engineer authorized to practice in the State stating that such construction cost is a reasonable and accurate estimation and that the useful life of the Project exceeds the maturity date of the Borrower Bond.

(k) Delivery of Documents. Concurrently with the delivery of this Loan Agreement (as previously authorized, executed and attested) at the Loan Closing, the Borrower will cause to be delivered to the I-Bank each of the following items:

(i) an opinion of the Borrower's Bond Counsel substantially in the form of Exhibit E hereto; provided, however, that an Authorized Officer of the I-Bank may permit portions of such opinion to be rendered by general counsel to the Borrower and may permit variances in such opinion from the form set forth in Exhibit E if, in the sole discretion of an Authorized Officer of the I-Bank (following consultation with the I-Bank's Bond Counsel);

(ii) counterparts of this Loan Agreement as previously executed and attested by the parties hereto;

(iii) copies of (A) those ordinances and/or resolutions finally adopted by the governing body of the Borrower and requested by the I-Bank, including, without limitation, (i) the resolution of the Borrower authorizing the execution, attestation and delivery of this Loan Agreement, (ii) the ordinances and resolutions of the Borrower authorizing the execution, attestation, sale and delivery of the Borrower Bond to the I-Bank, (iii) the resolution of the Borrower, if any, confirming the details of the sale of the Borrower Bond to the I-Bank, (iv) the resolution of the Borrower, if any, declaring its official intent to reimburse expenditures for the Costs of the Project from the proceeds of the I-Bank Bonds, and (v) any other Proceedings, all of the foregoing being certified by an Authorized Officer

of the Borrower as of the date of the Loan Closing, and (B) the approval by DLGS with respect to the issuance by the Borrower of the Borrower Bond to the I-Bank and setting forth any other approvals required therefor by DLGS;

(iv) if any portion of the Loan is being made to reimburse the Borrower for all or a portion of the Costs of the Project or to refinance indebtedness or reimburse the Borrower for the repayment of indebtedness previously incurred by the Borrower to finance all or a portion of the Costs of the Project, an opinion of Borrower's Bond Counsel, in form and substance satisfactory to the I-Bank, upon which the I-Bank may rely, to the effect that such reimbursement or refinancing will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on the I-Bank Bonds; and

(v) the certificates of insurance coverage as required pursuant to the terms of Section 3.06(d) hereof and such other certificates, documents, opinions and information as the I-Bank may require, if any.

(l) Execution and Delivery of Borrower Bond. Concurrently with the delivery of this Loan Agreement at the Loan Closing, the Borrower shall also deliver to the I-Bank the Borrower Bond, as previously executed and attested, upon the receipt of a written certification of the I-Bank that a portion of the net proceeds of the I-Bank Bonds shall be deposited in the Project Loan Account simultaneously with the delivery of the Borrower Bond.

(m) Notice of Material Adverse Change. The Borrower shall promptly notify the I-Bank of any material adverse change in the properties, activities, prospects or condition (financial or otherwise) of the Borrower or the Project, or in the ability of the Borrower to make all Loan Repayments and otherwise to observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Borrower Bond.

(n) Continuing Representations. The representations of the Borrower contained herein shall be true at the time of the execution of this Loan Agreement and at all times during the term of this Loan Agreement.

(o) Additional Covenants and Requirements.

(i) If necessary in connection with the I-Bank's issuance of the I-Bank Bonds or the making of the Loan, additional covenants and requirements, if any, have been included in Exhibit F hereto and made a part hereof. Such covenants and requirements may relate to, but need not be limited to, the issuance of additional debt of the Borrower, the use by or on behalf of the Borrower of certain proceeds of the I-Bank Bonds as such use relates to the exclusion from gross income for federal income tax purposes of the interest on any I-Bank Bonds, Rule 15c2-12, Rule 10b-5, and any other applicable federal, state or self-regulatory organization securities laws, regulations and rules, and matters in connection with the appointment of the Trustee under the Bond Indenture and any successors thereto. The Borrower hereby agrees to observe and comply with each such additional covenant and requirement, if any, included in Exhibit F hereto as if the same were set forth herein in its entirety.

(ii) Additional defined terms, covenants, representations and requirements have been included in Schedule A attached hereto, each of which are incorporated in this Loan Agreement by reference thereto as if set forth in full herein and the Borrower hereby agrees

to observe and comply with each such additional term, covenant, representation and requirement included in Schedule A as if the same were set forth herein in its entirety.

(p) Continuing Disclosure Covenant. To the extent that the I-Bank, in its sole discretion, determines, at any time prior to the termination of the Loan Term, that the Borrower is a material “obligated person”, as the term “obligated person” is defined in Rule 15c2-12, with materiality being determined by the I-Bank pursuant to criteria established, from time to time, by the I-Bank in its sole discretion, the Borrower hereby covenants that it will authorize and provide to the I-Bank, for inclusion in any Preliminary Official Statement or Official Statement of the I-Bank, all statements and information relating to the Borrower and deemed material by the I-Bank for the purpose of satisfying Rule 15c2-12 as well as Rule 10b-5, including certificates and written representations of the Borrower evidencing its compliance with Rule 15c2-12 and Rule 10b-5; and the Borrower hereby further covenants that the Borrower shall execute and deliver the Continuing Disclosure Agreement, substantially in the form attached hereto as Exhibit G, with such revisions thereto prior to execution and delivery thereof as the I-Bank shall determine to be necessary, desirable or convenient, in its sole discretion, for the purpose of satisfying Rule 15c2-12 and the purposes and intent thereof, as Rule 15c2-12, its purposes and intent may hereafter be interpreted from time to time by the SEC or any court of competent jurisdiction; and pursuant to the terms and provisions of the Continuing Disclosure Agreement, the Borrower shall thereafter provide ongoing disclosure with respect to all statements and information relating to the Borrower in satisfaction of the requirements set forth in Rule 15c2-12 and Rule 10b-5, including, without limitation, the provision of certificates and written representations of the Borrower evidencing its compliance with Rule 15c2-12 and Rule 10b-5.

(q) Except as otherwise expressly provided in this Loan Agreement to the contrary, the Borrower shall promptly comply with all reasonable requests of the I-Bank for information or reports regarding the Borrower, the Borrower’s accounts, books, records, or financial standing, or any other matter relating to the Borrower or the Project and shall provide the requested information or reports to the I-Bank within thirty (30) days of the date of the request.



## ARTICLE III

### LOAN TO BORROWER; AMOUNTS PAYABLE; GENERAL AGREEMENTS

#### SECTION 3.01. Loan; Loan Term.

(a) The I-Bank hereby agrees to (i) make the Loan, as described in Exhibit A-2 attached hereto and made a part hereof, to the Borrower, and (ii) to disburse the proceeds of the Loan to the Borrower in accordance with Section 3.02 and Exhibit F hereof. The Borrower hereby agrees to borrow and accept the Loan from the I-Bank upon the terms set forth in Exhibit A-2 attached hereto and made a part hereof. The Borrower agrees that the amount recorded by the I-Bank for the purpose of the Loan at Loan Closing shall constitute the initial principal amount of the Loan (as the same may be adjusted downward in accordance with the definition thereof), and neither the I-Bank nor the Trustee shall have any obligation thereafter to loan any additional amounts to the Borrower with respect to the Loan.

(b) Notwithstanding the provisions of subsection (a) of this Section 3.01 to the contrary, the I-Bank shall be under no obligation (i) to make the Loan to the Borrower if (1) at the Loan Closing, the Borrower does not deliver to the I-Bank the Borrower Bond and such other documents as are required pursuant to Section 2.02(k) hereof, or (2) an Event of Default has occurred and is continuing pursuant to this Loan Agreement, or (ii) to disburse the proceeds of the Loan to the Borrower in accordance with Section 3.02 and Exhibit F hereof, unless each of the conditions precedent to such disbursement, as set forth in Section 3.02 hereof, have been satisfied in full. The I-Bank intends to disburse the proceeds of the Loan to or on behalf of the Borrower in the amount and for the purpose set forth in Exhibit F hereof.

(c) The Borrower shall use the proceeds of the Loan strictly in compliance with the provisions of Section 2.01(h) hereof.

(d) The payment obligations created under this Loan Agreement are secured by the Borrower Bond. The obligations to pay the principal of the Borrower Bond, Interest on the Borrower Bond and other amounts due under the Borrower Bond are each direct, general, irrevocable and unconditional obligations of the Borrower payable from any source legally available to the Borrower, including, without limitation, the general tax revenues of the Borrower, and the Borrower shall, if necessary, levy or cause to be levied *ad valorem* taxes upon all the taxable property within the Borrower for the payment of such obligations, without limitation as to rate or amount.

#### SECTION 3.02. Disbursement of Loan Proceeds.

(a) The proceeds of the Loan shall be used to refinance the Borrower's Short-Term Loan as described in Exhibit F hereof.

(b) Neither the Trustee, if applicable, nor the I-Bank shall be required to disburse any Loan proceeds to or on behalf of the Borrower pursuant to this Loan Agreement, unless:

(i) such Loan proceeds shall be available for disbursement to, or for the account of, the Borrower, as determined by the I-Bank in its sole and absolute discretion;

(ii) reserved;

(iii) reserved; and

(iv) no Event of Default nor any event that, with the passage of time or service of notice or both, would constitute an Event of Default shall have occurred and be continuing hereunder.

(c) In connection with the disbursement of Loan proceeds to, or for the account of, the Borrower, the Borrower shall comply with each of its covenant obligations pursuant to this Loan Agreement relating to such disbursement of Loan proceeds, as well as the use of such Loan proceeds by the Borrower, including without limitation, the provisions of Section 2.02(g)(ii) hereof.

### **SECTION 3.03. Amounts Payable.**

(a) The Borrower shall repay the Loan in installments payable to the I-Bank as follows:

(i) the principal of the Loan shall be repaid semiannually on the Principal Payment Dates, in accordance with the schedule set forth in Exhibit A-2 attached hereto and made a part hereof;

(ii) the Interest Portion described in clause (i) of the definition thereof shall be paid semiannually on the Interest Payment Dates, in accordance with the schedule set forth in Exhibit A-2 attached hereto and made a part hereof; and

(iii) the Interest Portion described in clause (ii) of the definition thereof shall be paid upon the date of any optional redemption, prepayment or acceleration, as applicable.

The obligations of the Borrower under the Borrower Bond shall be deemed to be amounts payable under this Section 3.03. Each Loan Repayment, whether satisfied through a direct payment by the Borrower to the Trustee or (with respect to the Interest Portion) through the use of I-Bank Bond proceeds and income thereon on deposit in the Interest Account (as defined in the Bond Indenture) to pay interest on the I-Bank Bonds, shall be deemed to be a credit against the corresponding obligation of the Borrower under this Section 3.03 and shall fulfill the Borrower's obligation to pay such amount hereunder and under the Borrower Bond.

Each payment made to the I-Bank pursuant to this Section 3.03 shall be applied *first*, to the payment of the Loan Origination Fee, *second*, to the payment of the Administrative Fee, *third*, to the Interest Portion then due and payable, *fourth*, to the principal of the Loan then due and payable, and *finally* to the payment of any Late Fees hereunder.

(b) The Interest on the Loan described in clause (iv) of the definition thereof shall (i) consist of a Late Fee for any principal Loan Repayment that is received by the I-Bank or the Trustee on any date subsequent to its due date and (ii) shall be payable concurrently with the payment of such Loan Repayment in an amount calculated as follows: Such Late Fee shall equal the greater of twelve percent (12%) per annum or the Prime Rate plus one-half of one percent (0.50%) per annum with respect to the remaining outstanding principal amount of the Loan, from the applicable due date with respect to such Loan Repayment to the date it is actually paid; provided, however, that the rate of Interest on the Loan, including, without limitation, any Late

Fee incurred hereunder and calculated pursuant to the terms hereof, shall not exceed the maximum interest rate permitted by law.

(c) Reserved.

(d) In accordance with the provisions of the Bond Indenture, the Borrower shall receive, as a credit against its Loan Repayments, the amounts, if any, set forth in the certificate of the I-Bank filed with the Trustee pursuant to Section 5.04(b) of the Bond Indenture.

(e) The Interest on the Loan described in clause (ii) of the definition thereof shall be paid by the Borrower in the amount of one-half of the Administrative Fee, if any, to the I-Bank semiannually on each April 1 and October 1, commencing \_\_\_\_\_ 1, 202\_.

(f) The Interest on the Loan described in clause (iii) of the definition thereof constituting the Loan Origination Fee shall be paid by the Borrower at the time and in the amount set forth on set forth in Schedule A attached hereto and made a part hereof.

(g) In the event that the Borrower fails or is unable to pay promptly to the I-Bank in full any Loan Repayment or any other payment required under this Loan Agreement when due, the Borrower hereby acknowledges that the I-Bank may exercise its right under and in accordance with Section 12a of the Act to satisfy such deficiency from State-aid payable to the Borrower. The amount of State-aid so paid to the I-Bank shall be deemed to be a credit against the obligations of the Borrower under this Section 3.03, and any such payment made to the I-Bank shall fulfill the Borrower's obligation to pay such amount under this Loan Agreement and the Borrower Bond. Each such payment of State-aid so made to the I-Bank shall be applied *first* to the Interest Portion then due and payable, *second*, to the extent available, to the principal of the Loan then due and payable, *third*, to the extent available, to the Administrative Fee, *fourth*, to the extent available, to the payment of any Late Fee incurred hereunder, and *finally*, to the extent available, to any other payment required under this Loan Agreement.

(h) Each payment made by the Borrower pursuant to, and in satisfaction of, the requirements of this Section 3.03 shall be made by the Borrower to the Trustee via an electronic transfer of immediately available funds; provided, however, that upon thirty (30) days prior written notice to the Borrower, an Authorized Officer of the I-Bank may, in the sole discretion of such Authorized Officer, prescribe an alternative method by which payments pursuant to, and in satisfaction of, this Section 3.03 shall be made by the Borrower to the Trustee. Such method as prescribed by an Authorized Officer of the I-Bank may include, without limitation, the automatic debit by the I-Bank or the Trustee of the respective amounts of such payments, as required by this Section 3.03, from an account that shall be identified by the Borrower in writing and recorded on file with the I-Bank and the Trustee.

**SECTION 3.04. Unconditional Obligations.** The direct, general obligation of the Borrower to make the Loan Repayments and all other payments required hereunder and the obligation to perform and observe the other duties, covenants, obligations and agreements on its part contained herein shall be absolute and unconditional, and shall not be abated, rebated, set-off, reduced, abrogated, terminated, waived, diminished, postponed or otherwise modified in any manner or to any extent whatsoever while any Loan Repayments remain unpaid, for any reason, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or

constructive eviction, the taking by eminent domain or destruction of or damage to the Project, commercial frustration of the purpose, any change in the laws of the United States of America or of the State or any political subdivision of either or in the rules or regulations of any governmental authority, any failure of the I-Bank to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Project, this Loan Agreement, or any rights of set-off, recoupment, abatement or counterclaim that the Borrower might otherwise have against the I-Bank or any other party or parties; provided, however, that payments hereunder shall not constitute a waiver of any such rights.

The Borrower acknowledges that (i) payment of any I-Bank Bonds by the I-Bank does not constitute payment of the amounts due under this Loan Agreement and the Borrower Bond and (ii) payment of the I-Bank Bonds from moneys that were originally received by the Trustee pursuant to Section 5.04(a) of the Bond Indenture from repayments by the Other Borrowers of loans made to the Other Borrowers to finance or refinance a portion of the Costs of the projects of the Other Borrowers, does not constitute payment of the amounts due under this Loan Agreement and the Borrower Bond.

**SECTION 3.05. Loan Agreement to Survive Loan.** The Borrower acknowledges that its duties, covenants, obligations and agreements hereunder shall survive the discharge of the Bond Indenture applicable to the I-Bank Bonds and shall survive the payment of the principal and redemption premium, if any, of and the interest on the I-Bank Bonds until the Borrower can take no action or fail to take any action that could adversely affect the exclusion from gross income of the interest on the I-Bank Bonds for purposes of federal income taxation, at which time such duties, covenants, obligations and agreements hereunder shall, except for those set forth in Sections 3.06(a) and (b) hereof, terminate. For the avoidance of doubt, the Borrower acknowledges that its duties, covenants, obligations and agreements set forth in Sections 3.06(a) and 3.06(b) hereof shall survive the payment in full of the Loan.

**SECTION 3.06. Disclaimer of Warranties and Indemnification.**

(a) The Borrower acknowledges and agrees that (i) the I-Bank makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the Project or the Project or any portions thereof or any other warranty or representation with respect thereto; (ii) in no event shall the I-Bank, the Trustee or their respective agents be liable or responsible for any incidental, indirect, special or consequential damages in connection with or arising out of this Loan Agreement or the Project or the existence, furnishing, functioning or use of the Project or any item or products or services provided for in this Loan Agreement; and (iii) during the term of this Loan Agreement and to the fullest extent permitted by law, the Borrower shall indemnify and hold the I-Bank, the Trustee and their respective agents harmless against, and the Borrower shall pay any and all, liability, loss, cost, damage, claim, judgment or expense of any and all kinds or nature and however arising and imposed by law, which the I-Bank and/or the Trustee may sustain, be subject to or be caused to incur by reason of any claim, suit or action based upon personal injury, death or damage to property, whether real, personal or mixed, or upon or arising out of contracts entered into by the Borrower, the Borrower's ownership of the Project, or the acquisition, construction or installation of the Project.

(b) It is mutually agreed by the Borrower and the I-Bank that the I-Bank and the Trustee and their officers, agents, servants and employees shall not be liable for, and they shall be indemnified, and held harmless by the Borrower in any event from, any action performed under

this Loan Agreement and any claim or suit of whatsoever nature, except in the event of loss or damage resulting from their own negligence, gross negligence or willful misconduct.

(c) The Borrower and the I-Bank agree that all claims shall be subject to, and governed by, the provisions of the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 *et seq.* (except for N.J.S.A. 59:13-9 thereof), even though such statute, by its express terms, would not apply to claims arising under contract with the I-Bank but for this provision.

(d) In connection with its obligation to provide the insurance required under Section 2.02(i) hereof: (i) the Borrower shall include, or cause to be included, the I-Bank and its directors, employees and officers as additional “named insureds” on (A) any certificate of liability insurance procured by the Borrower (or other similar document evidencing the liability insurance coverage procured by the Borrower) and (B) any certificate of liability insurance procured by any contractor or subcontractor for the Project, and from the later of the date of the Loan Closing or the date of the initiation of construction of the Project until the date the Borrower receives the written certificate of Project completion from the I-Bank, the Borrower shall maintain said liability insurance covering the I-Bank and said directors, employees and officers in good standing; and (ii) the Borrower shall include the I-Bank as an additional “named insured” on any certificate of insurance providing against risk of direct physical loss, damage or destruction of the Project, and during the Loan Term the Borrower shall maintain said insurance covering the I-Bank in good standing.

The Borrower shall provide the I-Bank with a copy of each of any such original, supplemental, amendatory or reissued certificates of insurance (or other similar documents evidencing the insurance coverage) required pursuant to this Section 3.06(d).

**SECTION 3.07. Option to Prepay Loan Repayments.** The Borrower may prepay the principal Loan Repayments, in whole or in part, upon prior written notice to the I-Bank not less than ninety (90) days from the date of prepayment, and upon payment by the Borrower to the I-Bank of amounts that, together with investment earnings thereon, will be sufficient to pay the principal amount of the Loan Repayments to be prepaid plus the Interest Portion described in clause (ii) of the definition thereof on any such date; provided, however, that any such full or partial prepayment may only be made (i) upon the prior written approval of the I-Bank, such approval to take into consideration, among other things, any restrictions upon the I-Bank's ability to prepay I-Bank Bonds, and (ii) provided that the Borrower shall agree to pay all costs and expenses of the I-Bank in connection with such prepayment, including, without limitation, the fees of Bond Counsel to the I-Bank and any other professional advisors to the I-Bank. In addition, if at the time of such prepayment the I-Bank Bonds may not be redeemed or may only be redeemed at the option of the I-Bank upon payment of a premium, the Borrower shall add to its prepayment of I-Bank Bond Loan Repayments an amount, as determined by the I-Bank, either (i) sufficient to defease the I-Bank Bonds to be defeased as a result of the Borrower's prepayment or (ii) equal to such premium allocable to the I-Bank Bonds to be redeemed as a result of the Borrower's prepayment. Prepayments shall be applied first to the Interest Portion that accrues on the portion of the Loan to be prepaid until such prepayment date as described in clause (ii) of the definition thereof and then to principal payments (including premium, if any) on the Loan in inverse order of their maturity, in either case, as directed in writing by an Authorized Officer of the I-Bank.

**SECTION 3.08. Reserved.**

**SECTION 3.09. Approval of the New Jersey State Treasurer.** The Borrower and the I-Bank hereby acknowledge that, prior to or simultaneously with the Loan Closing, the New Jersey State Treasurer, in satisfaction of the requirements of Section 9a of the Act, issued the “Certificate of the New Jersey State Treasurer Regarding the Approval of the I-Bank Loan and the Fund Loan” (the “Treasurer’s Certificate”). Pursuant to the terms of the Treasurer’s Certificate, the New Jersey State Treasurer approved the Loan and the terms and conditions thereof as established by the provisions of this Loan Agreement.

## ARTICLE IV

### ASSIGNMENT OF LOAN AGREEMENT AND BORROWER BOND

#### **SECTION 4.01. Assignment and Transfer by I-Bank.**

(a) The Borrower hereby expressly acknowledges that, other than the provisions of Section 2.02(c) hereof, the I-Bank's right, title and interest in, to and under this Loan Agreement and the Borrower Bond have been assigned to the Trustee as security for I-Bank Bonds issued or to be issued pursuant to and as provided in the Bond Indenture, and that if any Event of Default shall occur, the Trustee, pursuant to the Bond Indenture, shall be entitled to act hereunder in the place and stead of the I-Bank (subject to the provisions of this Section 4.01(a), below, and Section 5.07 hereof). The Borrower hereby acknowledges the requirements of the Bond Indenture applicable to the I-Bank Bonds and consents to such assignment and appointment. This Loan Agreement and the Borrower Bond, including, without limitation, the right to receive payments required to be made by the Borrower hereunder and to compel or otherwise enforce observance and performance by the Borrower of its other duties, covenants, obligations and agreements hereunder, may be further transferred, assigned and reassigned in whole or in part to one or more assignees or subassignees by the Trustee at any time subsequent to their execution without the necessity of obtaining the consent of, but after giving prior written notice to, the Borrower.

The I-Bank shall retain the right to compel or otherwise enforce observance and performance by the Borrower of its duties, covenants, obligations and agreements under Section 2.02(c) hereof (provided, however, that in no event shall the I-Bank have the right to accelerate the Borrower Bond in connection with the enforcement of Section 2.02(c) hereof) and as otherwise provided by the terms and provisions of Section 5.07 hereof.

(b) The Borrower hereby approves and consents to any assignment or transfer of this Loan Agreement and the Borrower Bond that the I-Bank deems to be necessary in connection with any refunding of I-Bank Bonds or the issuance of additional bonds under the Bond Indenture or otherwise.

**SECTION 4.02. Assignment by Borrower.** Neither this Loan Agreement nor the Borrower Bond may be assigned by the Borrower for any reason, unless the following conditions shall be satisfied: (i) the I-Bank and the Trustee shall have approved said assignment in writing; (ii) the assignee shall have expressly assumed in writing the full and faithful observance and performance of the Borrower's duties, covenants, obligations and agreements under this Loan Agreement and, to the extent permitted under applicable law, the Borrower Bond; (iii) immediately after such assignment, the assignee shall not be in default in the observance or performance of any duties, covenants, obligations or agreements of the Borrower under this Loan Agreement or the Borrower Bond; and (iv) the I-Bank shall have received an opinion of Bond Counsel to the effect that such assignment will not adversely affect the security of the holders of the I-Bank Bonds or the exclusion of the interest on the I-Bank Bonds from gross income for purposes of federal income taxation under Section 103(a) of the Code.

## ARTICLE V

### EVENTS OF DEFAULT AND REMEDIES

**SECTION 5.01. Events of Default.** If any of the following events occur, it is hereby defined as and declared to be and to constitute an “Event of Default”:

(a) failure by the Borrower to pay, or cause to be paid, any Loan Repayment required to be paid hereunder when due;

(b) failure by the Borrower to pay, or cause to be paid, the Administrative Fee or any Late Fee incurred hereunder or any portion thereof when due or to observe and perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in subsections (a) and (f) of this Section 5.01 or other than the obligations of the Borrower contained in Section 2.02(c)(ii) hereof and in Exhibit F hereto, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Borrower by the I-Bank, unless the I-Bank shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the failure stated in such notice is correctable but cannot be corrected within the applicable period, the I-Bank may not unreasonably withhold its consent to an extension of such time up to 120 days from the delivery of the written notice referred to above if corrective action is instituted by the Borrower within the applicable period and diligently pursued until the Event of Default is corrected;

(c) any representation made by or on behalf of the Borrower contained in this Loan Agreement, or in any instrument furnished in compliance with or with reference to this Loan Agreement or the Loan, is false or misleading in any material respect;

(d) a petition is filed by or against the Borrower under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Loan Agreement or thereafter enacted, and/or any proceeding with respect to such petition and/or pursuant to any such law shall occur or be pending (including, without limitation, the operation and administration of the Borrower pursuant to any plan of reorganization approved and implemented under any such law), unless in the case of any such petition filed against the Borrower or any such proceeding such petition and such proceeding shall be dismissed within thirty (30) days after such filing and such dismissal shall be final and not subject to appeal or the further jurisdiction of any court; or the Borrower shall become insolvent or bankrupt or shall make an assignment for the benefit of its creditors; or a custodian (including, without limitation, a receiver, liquidator or trustee, but not including a takeover by DLGS) of the Borrower or any of its property shall be appointed by court order or take possession of the Borrower or its property or assets if such order remains in effect or such possession continues for more than thirty (30) days;

(e) the Borrower shall generally fail to pay its debts as such debts become due;



(f) failure of the Borrower to observe or perform such additional duties, covenants, obligations, agreements or conditions as are required by the I-Bank and specified in Exhibit F attached hereto and made a part hereof; and

(g) occurrence of an “Event of Default” pursuant to, and as defined in, any Short-Term Loan that may be outstanding.

**SECTION 5.02. Notice of Default.** The Borrower shall give the I-Bank prompt telephonic notice, confirmed immediately thereafter with a written notice, of the occurrence of any Event of Default referred to in Section 5.01(d) or (e) hereof and of the occurrence of any other event or condition that constitutes an Event of Default at such time as any senior administrative or financial officer of the Borrower becomes aware of the existence thereof.

**SECTION 5.03. Remedies on Default.** Whenever an Event of Default referred to in Section 5.01 hereof shall have occurred and be continuing, the Borrower acknowledges the rights of the I-Bank to take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce the observance and performance of any duty, covenant, obligation or agreement of the Borrower hereunder.

In addition, if an Event of Default referred to in Section 5.01(a) hereof shall have occurred and be continuing, the I-Bank shall, to the extent allowed by applicable law, have the right to declare all Loan Repayments and all other amounts due hereunder (including, without limitation, payments under the Borrower Bond) to be immediately due and payable, and upon notice to the Borrower the same shall become due and payable without further notice or demand.

**SECTION 5.04. Attorneys’ Fees and Other Expenses.** The Borrower shall on demand pay to the I-Bank the reasonable fees and expenses of attorneys and other reasonable expenses (including, without limitation, the reasonably allocated costs of in-house counsel and legal staff) incurred by either of them in the collection of Loan Repayments or any other sum due hereunder or in the enforcement of the observation or performance of any other duties, covenants, obligations or agreements of the Borrower upon an Event of Default.

**SECTION 5.05. Application of Moneys.** Any moneys collected by the I-Bank pursuant to Section 5.03 hereof shall be applied (a) *first* to pay any attorneys’ fees or other fees and expenses owed by the Borrower pursuant to Section 5.04 hereof, (b) *second*, to the extent available, to pay the Loan Origination Fee, (c) *third*, to the extent available, to pay the Administrative Fee, (d) *fourth*, to the extent available, to pay to the Interest Portion then due and payable, (e) *fifth*, to the extent available, to pay the principal of the Loan, and (f) *finally*, to the extent available, to the payment of any Late Fees and any other amounts payable hereunder as such amounts become due and payable.

**SECTION 5.06. No Remedy Exclusive; Waiver; Notice.** No remedy herein conferred upon or reserved to the I-Bank or the Trustee is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be

exercised from time to time and as often as may be deemed expedient. In order to entitle the I-Bank to exercise any remedy reserved to it in this Article V, it shall not be necessary to give any notice other than such notice as may be required in this Article V.

**SECTION 5.07. Retention of I-Bank's Rights.** Notwithstanding any assignment or transfer of this Loan Agreement pursuant to the provisions hereof or of the Bond Indenture, or anything else to the contrary contained herein, the I-Bank shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the Borrower at law or in equity, as the I-Bank may, in its discretion, deem necessary to enforce the obligations of the Borrower to the I-Bank pursuant to Section 5.03 hereof.

## ARTICLE VI

### MISCELLANEOUS

**SECTION 6.01. Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid or, unless otherwise specified herein to the contrary, provided by Electronic Means, (i) to the Borrower at the address specified in Exhibit A-1 attached hereto and made a part hereof and (ii) to the I-Bank and the Trustee at the following respective addresses:

To the I-Bank:

New Jersey Infrastructure Bank  
3131 Princeton Pike  
Building 4, Suite 216  
Lawrenceville, New Jersey 08648  
Attention: Executive Director  
[executivedirector@njib.gov](mailto:executivedirector@njib.gov)

To the Trustee:

Zions Bancorporation, National Association d/b/a Zions Bank  
401 Liberty Avenue, Suite 1729  
Pittsburgh, Pennsylvania 15222  
Attention: Corporate Trust Department

Any of the foregoing parties may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent by notice in writing given to the others.

**SECTION 6.02. Binding Effect.** This Loan Agreement shall inure to the benefit of and shall be binding upon the I-Bank and the Borrower and their respective successors and assigns.

**SECTION 6.03. Severability.** In the event any provision of this Loan Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

**SECTION 6.04. Amendments, Supplements and Modifications.** Except as otherwise provided in this Section 6.04, this Loan Agreement may not be amended, supplemented or modified without the prior written agreement of the I-Bank and the Borrower and without the satisfaction of all conditions set forth in Section 4.03 or 4.04 of the Bond Indenture. Notwithstanding the conditions set forth in Section 4.03 or 4.04 of the Bond Indenture, (i) Section 2.02(p) hereof may be amended, supplemented or modified upon the written agreement of the I-Bank and the Borrower and without the consent of the Trustee or any holders of the I-Bank Bonds, and (ii) the form of Continuing Disclosure Agreement set forth in Exhibit G hereto may be amended, supplemented or modified prior to the execution and delivery thereof as the I-Bank, in its sole discretion, shall determine to be necessary, desirable or convenient for the purpose of

satisfying Rule 15c2-12 and the purpose and intent thereof as Rule 15c2-12, its purpose and intent may hereafter be interpreted from time to time by the SEC or any court of competent jurisdiction, and such amendment, supplement or modification shall not require the consent of the Borrower, the Trustee or any holders of the I-Bank Bonds. If no I-Bank Bonds are Outstanding under the Bond Indenture, this Loan Agreement may be amended, supplemented or modified with the prior written agreement of the I-Bank and the Borrower and without the satisfaction of any conditions set forth in the Bond Indenture.

**SECTION 6.05. Execution in Counterparts.** This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 6.06. Applicable Law and Regulations.** This Loan Agreement shall be governed by and construed in accordance with the laws of the State, including the Act and the Regulations, which Regulations are, by this reference thereto, incorporated herein as part of this Loan Agreement.

**SECTION 6.07. Consents and Approvals.** Whenever the written consent or approval of the I-Bank or an Authorized Officer of the I-Bank, as the case may be, shall be required pursuant to the provisions of this Loan Agreement, such consent or approval may only be given by the I-Bank or an Authorized Officer of the I-Bank, as the case may be, (i) unless otherwise provided by law or by the rules, regulations or resolutions of the I-Bank, or (ii) unless expressly delegated to the Trustee, and (iii) except as otherwise provided in Section 6.09 hereof. Further, whenever the written consent or approval of the I-Bank or an Authorized Officer of the I-Bank, as the case may be, shall be required pursuant to the provisions of this Loan Agreement, such approval or consent of the I-Bank pursuant to the provisions hereof may be either granted or withheld by the I-Bank in its sole and absolute discretion.

**SECTION 6.08. Captions.** The captions or headings in this Loan Agreement are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions or sections of this Loan Agreement.

**SECTION 6.09. Benefit of Loan Agreement; Compliance with Bond Indenture.** This Loan Agreement is executed, among other reasons, to induce the purchase of the I-Bank Bonds. Accordingly, all duties, covenants, obligations and agreements of the Borrower herein contained are hereby declared to be for the benefit of, and are enforceable by, the I-Bank, the holders of the I-Bank Bonds and the Trustee. The Borrower covenants and agrees to observe and comply with, and to enable the I-Bank to observe and comply with, all applicable duties, covenants, obligations and agreements contained in the Bond Indenture.

**SECTION 6.10. Further Assurances.** The Borrower shall, at the request of the I-Bank, authorize, execute, attest, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Loan Agreement and the Borrower Bond.

**SECTION 6.11. No Personal Liability.** The Borrower hereby acknowledges and

agrees that, pursuant to and consistent with the provisions of Section 13 of the Act (N.J.S.A. 58:11B-13), neither the directors of the I-Bank nor any officers of the I-Bank taking any action with respect to the issuance of the I-Bank Bonds or the making of the Loan pursuant to this Loan Agreement shall be liable personally with respect to the I-Bank Bonds or the Loan or any matters or transactions related thereto.

**IN WITNESS WHEREOF**, the I-Bank and the Borrower have caused this Loan Agreement to be executed, sealed and delivered as of the date first above written.

**NEW JERSEY  
INFRASTRUCTURE BANK**

**[SEAL]**

**By:** \_\_\_\_\_  
**Robert A. Briant, Jr.**  
**Chairperson**

**ATTEST:**

\_\_\_\_\_  
**David E. Zimmer**  
**Assistant Secretary**

**[BORROWER]**

**By:** \_\_\_\_\_  
**Name:**  
**Title:**

**ATTEST:**

\_\_\_\_\_  
**Name:**  
**Title:**

## SCHEDULE A

### Certain Additional Loan Agreement Provisions

In addition to the terms defined in subsection (a) of Section 1.01 of this Loan Agreement, certain additional capitalized terms used in this Loan Agreement shall, unless the context clearly requires otherwise, have the meanings ascribed to such additional capitalized terms in this Schedule A.

#### Additional Definitions:

**“Borrower”** means the \_\_\_\_\_, a \_\_\_\_\_ duly created and validly existing pursuant to the laws of the State of New Jersey, including, without limitation, the Borrower Enabling Act, and any successors and assigns thereto.

**“Borrower Enabling Act”** means the “Local Bond Law”, constituting Chapter 169 of the Pamphlet Laws of 1960 of the State (codified at N.J.S.A. 40A:2-1 *et seq.*), as the same may from time to time be amended and supplemented, and the “Local Budget Law”, P.L. 1960, c. 169, as amended (N.J.S.A. 40A:4-1 *et seq.*).

**“Dated Date”** means June \_\_, 2022.

**“Interest Payment Dates”** means April 1 and October 1 of each year, commencing on \_\_\_\_\_ 1, 202\_\_.

**“Loan Origination Fee”** means that portion of the Loan Origination Fee charged to the Borrower in connection with obtaining a long-term loan. The amount of the Loan Origination Fee shall be \$ \_\_\_\_\_ and shall be payable on \_\_\_\_\_ 1, 202\_\_.

**“Principal Payment Dates”** means April 1 and October 1 of each year, commencing on October 1, 20\_\_.

**“Proceedings”** means bond ordinance of the Borrower finally adopted on \_\_\_\_\_, 20\_\_ and entitled “\_\_\_\_\_” and a resolution of the Borrower adopted [pursuant to the provisions of N.J.S.A. 40A:2-27(a)(2), 40A:2-26(f) and 58:11B-9(a)] on \_\_\_\_\_, 2022 entitled “\_\_\_\_\_”.

**“Project Completion Date”** means \_\_\_\_\_, 202\_\_

**EXHIBIT A-1**

**Description of Project**



**EXHIBIT A-2**

**Description of Loan**

See Exhibit to Specimen Borrower Bond (Exhibit D hereto)

**EXHIBIT B**

**Basis for Determination of Allowable Project Costs**

**EXHIBIT C**

Reserved

**EXHIBIT D**

**Specimen Borrower Bond**

**EXHIBIT E**

**Opinions of Borrower's Bond Counsel and General Counsel**

See Closing Item \_\_

## EXHIBIT F

### Additional Covenants and Requirements

The proceeds of the Loan received by the Borrower in the amount of \$\_\_\_\_\_ will be used to pay the outstanding principal amount of a short-term loan made by the I-Bank to the Borrower on \_\_\_\_\_, 20\_\_, in the original aggregate principal amount of not to exceed \$\_\_\_\_\_ (the "Short-Term Loan"). The Short-Term Loan currently is outstanding in the aggregate principal amount of \$\_\_\_\_\_. Proceeds of the Short-Term Loan were used to finance costs of the Project.

**EXHIBIT G**

**Form of Continuing Disclosure Agreement**

**RESOLUTION NO. 22 - 34**

**RESOLUTION OF THE NEW JERSEY INFRASTRUCTURE BANK AUTHORIZING  
A TWO-YEAR EXTENSION OF THE TRUSTEE/ESCROW AGENT SERVICES CONTRACT FOR THE WATER BANK  
AND TRANSPORTATION BANK FINANCING PROGRAMS**

**WHEREAS**, pursuant to Section 5 of the New Jersey Infrastructure Trust Act, constituting Chapter 334 of the Pamphlet Laws of 1985 of the State of New Jersey (codified at N.J.S.A. 58:11B-1 et seq.), the New Jersey Infrastructure Bank (“I-Bank”) is authorized to enter agreements necessary to the performance of its duties; and

**WHEREAS**, pursuant to Resolution No. 20-03, the Board of Directors of the I-Bank (“Board”) authorized the Executive Director of the I-Bank to solicit proposals for Trustee and Escrow Agent Services for the Environmental Infrastructure Financing Program (“Water Bank”) and the Transportation Infrastructure Financing Program (“Transportation Bank”); and

**WHEREAS**, the I-Bank competitively procured Trustee and Escrow Agent Services through formal advertisement and distribution of a Request for Proposals (“RFP”) pursuant to I-Bank Policy and Procedure 4.0 and pursuant to Executive Order No. 26 (Whitman); and

**WHEREAS**, pursuant to Resolution No. 20-17, the Board authorized the appointment of the highest-ranked firm, Zions Bank Corporate Trust (“Zions Bank”), for a two-year term with an option for a two-year extension subject to Board approval; and

**WHEREAS**, on July 30, 2020, an agreement was entered between the I-Bank and Zions Bank (“Original Contract”) appointing Zions Bank as a provider of Trustee and Escrow Agent Services for the Water Bank and Transportation Bank programs; and

**WHEREAS**, the Original Contract approved by the Board pursuant to Resolution No. 20-17 provides for an extension for up to two years, subject to Board authorization; and

**WHEREAS**, it is the desire of the Board to exercise the two-year option for renewal of its Original Contract with Zions Bank as outlined in the Original Contract, as the Board deems continued appointment of Zions Bank for Trustee and Escrow Agent Services for the Water Bank and Transportation Bank Programs to be appropriate.

**NOW THEREFORE BE IT RESOLVED**, that the Vice Chairperson of the I-Bank is hereby authorized to issue a contract extension to Zions Bank to provide the services set forth in the Original Contract pursuant to the terms and conditions thereof and the price agreed to therein. The terms and conditions of the amended agreement shall include, but not be limited to:

- a. The provision of services as outlined in the I-Bank’s RFP distributed on February 4, 2020, the proposal submitted by Zions Bank dated March 5, 2020, the Cost Proposal submitted by Zions Bank on March 5, 2020 and the Best and Final Offer submitted by Zions Bank on March 10, 2020; and
- b. Such other terms and conditions as may be contemplated by the RFP and the materials enclosed therewith as deemed necessary and appropriate by the Secretary of the I-Bank.



The Vice Chairperson is hereby authorized and directed to prepare and execute an extension agreement containing the terms set forth in the Original Contract and take such other actions that the Vice-Chairperson, in his sole discretion, after consultation with Legal Counsel, deems necessary, convenient or desirable in order to effectuate the transactions contemplated hereby.

This Resolution shall become effective in accordance with the terms of Section 4(i) of the Act (N.J.S.A. 58:11B-4(i)).

Adopted Date: May 12, 2022

Motion Made By: Mr. Michael Russo

Motion Seconded By: Mr. David Moore

Ayes: 8

Nays: 0

Abstentions: 0

## RESOLUTION NO. 22 - 35

### RESOLUTION OF THE NEW JERSEY INFRASTRUCTURE BANK APPROVING SFY2022 OR SFY2023 NJ WATER BANK CONSTRUCTION FINANCING PROGRAM LOANS TO PASSAIC VALLEY WATER COMMISSION AND NEW JERSEY AMERICAN WATER COMPANY

**WHEREAS**, the New Jersey Infrastructure Bank (the “I-Bank”), in accordance with (i) the “New Jersey Infrastructure Trust Act”, constituting Chapter 334 of the Pamphlet Laws of 1985 of the State of New Jersey (the “State”) (codified at N.J.S.A. 58:11B-1 *et seq.*), as the same may from time to time be amended and supplemented (the “Act”), and (ii) the regulations promulgated pursuant to the Act (N.J.A.C. 7:22-2.1 *et seq.*), as the same may from time to time be amended and supplemented (the “Regulations”), is authorized, pursuant to an interim financing program for the New Jersey Water Bank (the “Water Bank Construction Financing Program”), to make loans (each, a “Construction Loan”) to eligible project sponsors (each, a “Borrower”) for the purpose of financing the allowable costs of environmental infrastructure projects, provided that each such Construction Loan made by the I-Bank to any such Borrower satisfies the requirements of the Act, including, without limitation, N.J.S.A. 58:11B-9(d), and the Regulations, including, without limitation, N.J.A.C. 7:22-4.47; and

**WHEREAS**, pursuant to the terms and provisions of N.J.A.C. 7:22-4.47, a proposed project sponsor is eligible to be a Borrower for a Construction Loan for purposes of financing the allowable costs of the project of such Borrower pursuant to the Water Bank Construction Financing Program, provided each of the following conditions is satisfied in full: (i) the Project is listed on the project priority list that has been submitted to the State Legislature pursuant to N.J.S.A. 58:11B-20 or N.J.S.A. 58:11B-20.1 (the “Priority List”); (ii) the proposed Borrower has submitted a complete application for the Project in accordance with N.J.A.C. 7:22-4.11; (iii) the proposed Borrower has complied with the I-Bank’s Credit Policy, as then in effect pursuant to formal adoption by the I-Bank; (iv) the Project has been certified for funding by the I-Bank in accordance with N.J.A.C. 7:22-4.13; (v) the Project is in the fundable range in the forthcoming funding cycle given the Project’s rank and the anticipated availability of New Jersey Department of Environmental Protection (the “Department” or “NJDEP”) and I-Bank monies; and (vi) the proposed Borrower has not previously received a Construction Loan through the Water Construction Financing Program for the same project scope (exclusive of a Construction Loan made solely for the purpose of extending the term of a prior Construction Loan, for a Residual Construction Loan, or for a Supplemental Short Term Loan pursuant to N.J.S.A. 58:11B-9(d)); and

**WHEREAS**, the I-Bank duly adopted Resolution No. 21-07 on February 11, 2021, entitled “Resolution of the New Jersey Infrastructure Bank Authorizing the Water Bank Construction Financing Program for State Fiscal Year 2022” (the “SFY2022 Authorizing Resolution”) to provide funding for the implementation of the Water Bank Construction Financing Program during State Fiscal Year (“SFY”) 2022 (the “2022 Construction Loan Program”); and

**WHEREAS**, the I-Bank duly adopted Resolution No. 22-08 on February 10, 2022 entitled “Resolution of the New Jersey Infrastructure Bank Authorizing the Water Bank Construction Financing Program for State Fiscal Year 2023” (the “SFY2023 Authorizing Resolution”) to provide funding for the implementation of the Water Bank Construction Financing Program during SFY2023 (the “2023 Construction Loan Program”); and

**WHEREAS**, it is the desire of the Board of Directors of the I-Bank (“Board” or “Board of Directors”) to authorize a Water Bank Construction Loan Program loan (the “Construction Loan”) pursuant to either the 2022 Construction Loan Program for a loan closing that occurs in SFY2022 or the 2023 Construction Loan Program for a loan closing occurring in SFY2023 (each, the “Applicable Construction Loan Program”); and

**WHEREAS**, pursuant to Section 1(a) of the SFY2022 Authorizing Resolution, up to a maximum of \$500,000 of Available I-Bank Revenues per Borrower may be available to finance loans under the Construction Loan Program at the discretion of an Authorized Officer; and

**WHEREAS**, pursuant to Section 1(a) of the SFY2023 Authorizing Resolution, up to a maximum of \$500,000 of Available I-Bank Revenues per Borrower may be available to finance loans under the Applicable Construction Loan Program at the discretion of an Authorized Officer; and

**WHEREAS**, pursuant to the terms and definitions of the SFY2022 Authorizing Resolution and the SFY2023 Authorizing Resolution (each, the “Applicable Authorizing Resolution”), the Authorized Officers (consisting of the Chairperson of the I-Bank, the Vice-Chairperson of the I-Bank, the Secretary of the I-Bank, and the Executive Director of the I-Bank, or any other person or persons designated by the Board by resolution to act on behalf of the I-Bank, but in each case subject to the limitations of the by-laws of the I-Bank) are each severally authorized, after consultation with Bond Counsel to the I-Bank and, if necessary, the Office of the Attorney General of the State, to approve the participation of a Borrower in the Construction Loan Program, provided that such Borrower qualifies for such participation pursuant to the provisions of the Act and the Regulations and the terms of the Applicable Authorizing Resolution; and

**WHEREAS**, pursuant to Section 3 of the Applicable Authorizing Resolution, any Construction Loan approved by an Authorized Officer, following the requisite consultations, and made by the I-Bank to a Borrower as part of the Applicable Construction Loan Program shall not exceed \$15 million in principal amount (the “Construction Loan Limitation”) unless a higher principal amount thereof is authorized by official action of the Board; and

**WHEREAS**, pursuant to Section 2 of the Applicable Authorizing Resolution, revisions and modifications may be made to terms and provisions of the Construction Loan Program pursuant to further official action in the form of the adoption of a resolution by the Board; and

**WHEREAS**, Passaic Valley Water Commission (“PVWC”) has requested from the I-Bank a Construction Loan, in anticipation of a long-term loan from each of the I-Bank and the Department, to finance the planning, design and construction of Project No. 1605002-002 for lead service line replacement (the “PVWC Project”); and

**WHEREAS**, pursuant to Resolution No. 21-38, the Board authorized an SFY2021 and SFY2022 Construction Loan in the amount of \$55,000,000 for the PVWC Project at its June 10, 2021 meeting; and

**WHEREAS**, PVWC has requested an increase for the PVWC Project authorized loan amount of \$72,000,000; and

**WHEREAS**, pursuant to the PVWC Project construction schedule, a Construction Loan not to exceed two years for planning and three full fiscal years for construction will be made, all or a portion of which will be completed prior to PVWC's receipt of I-Bank's and the Department's long-term New Jersey Environmental Infrastructure Financing Program loans, thereby resulting in PVWC's request for a construction loan in an amount not to exceed \$72,000,000; and

**WHEREAS**, New Jersey American Water Company, Incorporated ("NJ American") has requested from the I-Bank a Construction Loan, in anticipation of a long-term loan from each of the I-Bank and the Department, to finance the planning, design and construction of Project No. 0712001-016, for lead service line replacement (the "NJ American Project"); and

**WHEREAS**, pursuant to the NJ American Project construction schedule, a Construction Loan not to exceed two years for planning and three full fiscal years for construction will be made, all or a portion of which will be completed prior to NJ American's receipt of I-Bank's and the Department's long-term New Jersey Environmental Infrastructure Financing Program loans, thereby resulting in NJ American's request for a construction loan in an amount not to exceed \$28,000,000; and

**WHEREAS**, with respect to the Applicable Authorizing Resolution's Construction Loan Limitation, any Construction Loan approved by any of the Authorized Officers, following the requisite consultations, and made by the I-Bank to a Borrower as part of the Applicable Construction Loan Program shall not exceed \$15 million in principal amount, subject to further official action in the form of the adoption of a resolution by the Board, the I-Bank now desires, given the facts and circumstances set forth in the recitals hereto, to create as an exception to such limitation on Construction Loans, as part of the Applicable Construction Loan Program, to the aforementioned project sponsors in an amount not to exceed the stated amount for the purpose of completing the PVWC Project and NJ American Project; and

**WHEREAS**, with respect to the total amount of Available I-Bank Revenues available to one Borrower pursuant to the Applicable Authorizing Resolution, the I-Bank desires, given the anticipated amount of the Administrative Fees owed the NJDEP as defined in Section 2(d) of the Applicable Authorizing Resolution ("Administrative Fee") for the PVWC Project and NJ American Project, to make an exception to such limitation as part of the Applicable Construction Loan Program, and approve the aforementioned Construction Loans to PVWC and NJ American utilizing Available I-Bank Revenues in excess of \$500,000 to the extent required to finance the Administrative Fee; and

**WHEREAS**, it is the desire of the I-Bank that, other than the Authorizing Resolution's Construction Loan Limitations described in the immediately preceding recitals, PVWC and NJ American shall comply with (i) all other requirements of the Authorizing Resolution, (ii) all applicable requirements of the Act, (iii) all applicable requirements of the Regulations and (iv) satisfy the credit worthiness requirements of the Program.

**NOW, THEREFORE, BE IT RESOLVED** by the Board as follows:

**Section 1.** The recitals of this Resolution are incorporated herein by references as if set forth at length herein.

**Section 2.** Notwithstanding the Applicable Authorizing Resolution’s Construction Loan Limitation providing that all Construction Loans approved by an Authorized Officer, following the requisite consultations, and made by the I-Bank to Borrowers as part of the Construction Loan Program, shall not exceed \$15 million in principal amount, the Board, given the facts and circumstances set forth in the recitals hereto hereby authorizes, as an exception to the Construction Loan Limitation, Construction Loans to PVWC and NJ American for the stated projects in an amount not to exceed the amounts stated for the purpose of completing the projects.

<b>Project Sponsor</b>	<b>Project #</b>	<b>Description</b>	<b>Previously Authorized Loan Amount</b>	<b>Increase</b>	<b>Total Authorized Loan Amount</b>
Passaic Valley Water Commission	1605002-002	Lead Service Line Replacement in Main System	\$55,000,000	\$17,000,000	\$72,000,000
NJ American Water Company	0712001-016	Lead Service Line Replacement Program	\$0	\$0	\$28,000,000

**Section 3.** Notwithstanding the limit on the amount of Available I-Bank Revenues available to one Borrower to finance loans under the Applicable Construction Loan Program, the Board hereby authorizes an exception to such limitation and approves the aforementioned Construction Loans to PVWC and NJ American utilizing Available I-Bank Revenues in excess of \$500,000 to the extent required to finance the Administrative Fee; and

**Section 4.** Notwithstanding the stated maximum loan amounts of \$72,000,000 to PVWC and \$28,000,000 to NJ American, the Applicable Construction Loan Program funding commitment for the loans shall be limited to the operable segments certified, in amounts set forth in the Department’s allowable cost determination for each such operable segment, and such funding commitment shall arise at the time of loan closing of the first such operable segment, and upon the Department’s allowable cost determination for each subsequent operable segment certified thereafter, recognizing that the terms and conditions of the long-term New Jersey Environmental Infrastructure Financing Program loans for each said project shall reflect the terms and conditions set forth in the Department’s Intended Use Plan and the Priority System and the I-Bank’s Financial Plan for the state fiscal year in which the construction contract is certified.

**Section 5.** Other than the exceptions created by the provisions of Sections 2 and 3 of this Resolution, the Construction Loans made to PVWC and NJ American as part of the Applicable Construction Loan Program shall comply fully with (i) each of the terms, provisions and conditions precedent set forth in the Authorizing Resolution, (ii) all applicable requirements of the Act, (iii) all applicable requirements of the Regulations, and (iv) satisfy the credit worthiness requirements of the Program.

**Section 6. Further Action.** Any Authorized Officer is hereby authorized and directed to take such other actions, consistent with the terms of this Resolution, that such Authorized Officer, in his or her respective sole discretion after consultation with Bond Counsel, deems necessary, convenient, or desirable to affect the transactions contemplated hereby.

**Section 7. Effective Date.** This Resolution shall become effective in accordance with the terms of Section 4(i) of the Act (N.J.S.A. 58:11B-4(i)).

Adopted Date: May 12, 2022

Motion Made By: Mr. Mark Longo

Motion Seconded By: Mr. Paul Hauch

Ayes: 8

Nays: 0

Abstentions: 0

**RESOLUTION NO. 22 - 36**

**RESOLUTION OF THE NEW JERSEY INFRASTRUCTURE BANK  
APPROVING BOARD MEETINGS TO BE CONDUCTED**

**WHEREAS**, Section 8(b) of the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-6 et seq. (the “OPMA”), authorizes public boards to conduct meetings both in-person as well as by means of communication equipment; and

**WHEREAS**, in December 2021, the New Jersey Infrastructure Bank (“I-Bank”) noticed the annual schedule of I-Bank Board meetings for 2022 to be conducted electronically; and

**WHEREAS**, emergency COVID restrictions were lifted permitting New Jersey State agencies to resume in-person public meetings effective March 14, 2022; and

**WHEREAS**, Section 2 of Chapter II of the I-Bank’s By-Laws (“I-Bank By-Laws”) requires that the I-Bank hold its regular monthly meetings in the offices of the I-Bank unless changed by the I-Bank; and

**WHEREAS**, the I-Bank desires to conduct its meetings for June 2022 through December 2022 both in person as well as via means of communications equipment for participants unable to attend the regular monthly meetings in-person.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the New Jersey Infrastructure Bank (the “Board”), as follows:

**Section 1.** The recitals of this Resolution are incorporated herein by reference as if set forth at length herein.

**Section 2.** The Board hereby authorizes that Board meetings be conducted through the balance of calendar year 2022 to be conducted both in-person and via communications equipment means.

**Section 3.** The Executive Director is authorized to notice the 2022 meetings in accordance with the requirements of the OPMA and to take such other actions as the Executive Director deems necessary and appropriate to carry out the terms of this Resolution, OPMA, and the I-Bank By-Laws.

**Section 4.** This Resolution shall become effective in accordance with the terms of Section 4(i) of the Act (N.J.S.A. 58:11B-4(i)).

Adopted Date: May 12, 2022

Motion Made By: Mr. Robert Briant

Motion Seconded By: Mr. Mark Longo

Ayes: 8

Nays: 0

Abstentions: 0

**SUMMARY OF ANNOUNCEMENTS:**

Executive Director Zimmer summarized the substantive events and correspondence issued since the last I-Bank Board meeting.

- **On May 11, 2022;** Executive Director Zimmer participated as a panelist in the “Supporting Water Utilities in Disadvantaged and Underserved Communities” webinar sponsored by the Reservoir Center for Water Solutions;
- **On May 9, 2022;** Chief Financial Officer Kaltman, Human Resources Director Drake, Comptroller Bruther, and Accounting Manager Andujar conducted the I-Bank’s first payroll process with ADP;
- **On May 9, 2022;** Executive Director Zimmer and Construction Project Manager Rolon participated in the NJ Resilience Accelerator Workshop at Hillsborough, NJ;
- **On May 5, 2022;** I-Bank Executive Staff, Water Bank Bond Counsel and Financial Advisor participated in a call with Bond Counsel for Borrowers participating in the WIFIA program financing and their Bond Counsel to discuss the unique project financing issues;
- **On April 29, 2022;** Executive Director Zimmer, Chief Financial Officer Kaltman, the Financial Advisor team at PFM and Bond Counsel Rich Nolan participated in a call with legal and underwriting staff at US EPA’s WIFIA Program to close on the \$221.3 million WIFIA loan;
- **On April 29, 2022;** Executive Director Zimmer, Chief Financial Officer Kaltman, Accountant Wendy Li, and DEP Bureau Chief Jenkins participated in a meeting with representatives of Ridgewood Water at the I-Bank Office to discuss prospective water infrastructure projects;
- **On April 27, 2022;** COO Fernandez and Project Manager Rolon conducted a presentation showcasing the Transportation Bank at the NJ TransAction Conference held in Atlantic City;
- **On April 25, 2022;** Executive Director Zimmer, Assistant Director, Legal & Compliance Officer Karp, and DEP Bureau Chiefs Jenkins and Hauch participated in a meeting with representatives of the City of Camden at the I-Bank Office to discuss prospective water infrastructure projects;
- **On April 18-22, 2022;** Executive Director Zimmer and Project Manager Rolon attended the CIFA Annual Summit conference in Washington, DC;
- **On April 18, 2022;** Executive Director Zimmer participated on a call with Carolyn Cannella of the Governor’s Office to discuss the potential financing of the South Jersey Wind Port;
- **Since the April 14, 2022 Board meeting;** Program staff participated in various conference calls not noted above to discuss project financing issues or pre-planning and prospective financing program participation with:

**Water Bank**

Bayshore RSA	May 6th
Bloomfield Township	May 3rd
Camden City	May 7th
Carteret Borough	April 18 <sup>th</sup>
Clinton Town	April 20 <sup>th</sup>
Cumberland County IA	April 12 <sup>th</sup>
Hackensack City	April 20 <sup>th</sup> , May 4 <sup>th</sup>
Jersey City MUA	April 19 <sup>th</sup>
Middlesex County UA	April 27 <sup>th</sup>



Newark City	May 4 <sup>th</sup>
Ocean County UA	April 11 <sup>th</sup>
Rockaway Valley RSA	April 27 <sup>th</sup>
SMRSA	May 6 <sup>th</sup>
Trenton City	May 5 <sup>th</sup>
Vernon Township	May 10 <sup>th</sup>
Waldwick Borough	April 27 <sup>th</sup>

### **Transportation Bank**

NJ DOT's Quarterly County Engineer Meeting

April 29<sup>th</sup>

- Executive Director Zimmer, Assistant Director/LCO Karp, CFO Kaltman, COO Fernandez, and bond counsel from CSG, and McCarter & English and Financial Advisors from PFM and Hilltop Securities continue to participate in weekly calls regarding the WIFIA and Transportation Loan programs;
- Executive Director Zimmer continues to participate in monthly CIFA Legislative Committee meetings;
- COO – Transportation Fernandez and Project Manager Rolon continue to participate in NJSACE/NJDOT quarterly meetings;
- Executive Director Zimmer holds weekly meetings with Integris to discuss and review IT MSSP issues, open orders, and tickets;
- Assistant Director, Chief Legal & Compliance Officer Karp is serving as the point person for the I-Bank, regarding the development and adoption of Program regulations for both the Transportation Bank and Water Bank; and
- **The next Board meeting is scheduled for Thursday, June 9, 2022, at 10:00 am at the I-Bank office.**

A copy of the announcements is available on the I-Bank's webpage (located under "Board Information", "2022 Meetings." Select "Minutes" and the announcements will be at the end of the file)

<https://www.njib.gov/nj/Board+Information.3>.

### **SUMMARY OF CORRESPONDENCE:**

Last month, the I-Bank received or sent the noteworthy correspondence listed below. Board members should contact the I-Bank Administrative Assistant if they wish to receive full copies.

- On **May 11, 2022**; the I-Bank received approval from Governor Philip Murphy for the New Jersey Infrastructure Bank (I-Bank) Resolution for the Master Indenture of Trust between the New Jersey Infrastructure Bank and Zions Bancorporation, National Association d/b/a Zions Bank as Trustee for the Transportation Program.
- On **May 6, 2022**; the I-Bank received approval from Honorable Elizabeth Maher Muoio, Treasurer, State of New Jersey for the New Jersey Infrastructure Bank (I-Bank) Resolution for the Master Indenture of Trust between the New Jersey Infrastructure Bank and Zions Bancorporation, National Association d/b/a Zions Bank as Trustee for the Transportation Program.

- On **May 6, 2022**; the I-Bank received approval from Honorable Elizabeth Maher Muoio, Treasurer, State of New Jersey regarding the Certification of Project Loans for the SFY2022 Transportation Program.
- On **April 29, 2022**; a letter was sent to Noreen Giblin, Deputy Chief Counsel and Director Governor's Authorities Unit regarding a request for approval of the New Jersey Infrastructure Bank (I-Bank) Resolution for the Master Indenture of Trust between the New Jersey Infrastructure Bank and Zions Bancorporation, National Association d/b/a Zions Bank as Trustee for the Transportation Program.
- On **April 29, 2022**; a letter was sent to Honorable Elizabeth Maher Muoio, Treasurer, State of New Jersey regarding the request for approval of the New Jersey Infrastructure Bank (I-Bank) Resolution for the Master Indenture of Trust between the New Jersey Infrastructure Bank and Zions Bancorporation, National Association d/b/a Zions Bank as Trustee for the Transportation Program.
- On **April 29, 2022**; a letter was sent to Honorable Elizabeth Maher Muoio, Treasurer, State of New Jersey regarding the request for approval of the Certification of Project Loans for the SFY2022 Transportation Program.