

## RESOLUTION NO. 22 – 21

**AMENDED AND RESTATED RESOLUTION OF THE NEW JERSEY INFRASTRUCTURE BANK (I) AUTHORIZING THE ISSUANCE AND SALE OF ITS ENVIRONMENTAL INFRASTRUCTURE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$96,000,000 AND CONSISTING OF (A) ENVIRONMENTAL INFRASTRUCTURE BONDS, SERIES 2022 I-W1 (TAXABLE) AND (B) ENVIRONMENTAL INFRASTRUCTURE WIFIA FINANCING PROGRAM BONDS, SERIES 2022C-W1 (TAXABLE), (II) AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE OF TRUST IN CONNECTION WITH THE ISSUANCE OF ITS ENVIRONMENTAL INFRASTRUCTURE BONDS, (III) AUTHORIZING THE SALE OF ITS ENVIRONMENTAL INFRASTRUCTURE BONDS, AND (IV) DIRECTING ANY AUTHORIZED OFFICER OF THE NEW JERSEY INFRASTRUCTURE BANK TO TAKE CERTAIN ACTIONS IN ACCORDANCE WITH THE FOREGOING**

**WHEREAS**, pursuant to the New Jersey Environmental Infrastructure Financing Program (the “Financing Program”) and in accordance with, *inter alia*, the terms and provisions of (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”), and (ii) a financial plan developed by the I-Bank pursuant to, and in accordance with, Sections 21, 21.1, 22 and 22.1 of the Act, and approved by a concurrent resolution duly adopted by the Legislature of the State (the “Financial Plan”), the New Jersey Infrastructure Bank, a body corporate and politic with corporate succession, created pursuant to the Act (the “I-Bank”), may issue its revenue bonds (“I-Bank Bonds”), from time to time, for the purpose of making loans (each, an “I-Bank Loan”) to qualifying borrowers (each, a “Borrower”) from the proceeds of such I-Bank Bonds, pursuant to a loan agreement by and between the I-Bank and such Borrower (the “I-Bank Loan Agreement”), in order to finance a portion of the allowable costs of such Borrower’s environmental infrastructure facilities (consisting of wastewater treatment systems, stormwater management systems or water supply facilities (as such terms are defined in the Act)) (the “Environmental Infrastructure Facilities”); 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 (i) the issuance of such I-Bank Bonds and (ii) the payment thereof and the security therefor; and

**WHEREAS**, in furtherance of the Financing Program and the financing, pursuant thereto, of a portion of the allowable costs of certain projects (the “WIFIA Projects”) consisting of the construction, acquisition, installation and renovation of the Environmental Infrastructure Facilities of certain qualifying Borrowers that are identified in the hereinafter defined WIFIA Loan Agreement (the “WIFIA Borrowers”), the I-Bank has successfully made application, pursuant to Section 23(c) of the Act, for a loan (the “WIFIA Loan”) to be made by the United States Environmental Protection Agency (the “USEPA”) to the I-Bank in an aggregate principal amount not to exceed \$221,363,600, pursuant to and in accordance with the federal Water Infrastructure Finance and Innovation Act of 2014, 33 U.S.C. 3901-3914, as the same may be amended and supplemented from time to time (the “WIFIA Act”), the terms and provisions of which WIFIA Loan, including, without limitation, the repayment obligations of the I-Bank to the USEPA with respect to such WIFIA Loan, are set forth in that certain Loan Agreement (the “WIFIA Loan Agreement”), by and between the USEPA and the I-Bank; and

**WHEREAS**, the I-Bank intends to draw the proceeds of the WIFIA Loan from the USEPA pursuant to up to three tranches, as permitted pursuant to the terms and provisions of the WIFIA Loan Agreement, the first such tranche to be drawn by the I-Bank in the Spring of 2022; and

**WHEREAS**, the repayment obligations of the I-Bank to the USEPA with respect to such WIFIA Loan and, specifically, each tranche thereof, pursuant to and in accordance with the terms and provisions of the WIFIA Loan Agreement, shall be evidenced and secured by an I-Bank Bond to be issued by the I-Bank to the USEPA; and

**WHEREAS**, as a condition to such WIFIA Loan by the USEPA to the I-Bank, and in satisfaction of certain requirements of the WIFIA Act and the WIFIA Loan Agreement, the I-Bank, in partnership with the New Jersey Department of Environmental Protection (the “Department”), is required to provide, from other available sources, that portion of the financing for the allowable costs of the WIFIA Project of each respective WIFIA Borrower that shall not be made from proceeds of the WIFIA Loan and that is necessary in order to ensure the successful completion of such WIFIA Projects; and

**WHEREAS**, in furtherance of the Financing Program as it is applied to the terms and provisions of the WIFIA Loan Agreement and, specifically, the first tranche to be drawn by the I-Bank thereunder (the “2022 WIFIA Financing Program”) and in order to satisfy its obligations pursuant to the WIFIA Act and the WIFIA Loan Agreement, the I-Bank has determined to issue its Series 2022 I-W1 Bonds and its Series 2022C-W1 WIFIA Bonds with respect to, and for the purpose of financing, the first tranche of the WIFIA Loan and the WIFIA Projects of the WIFIA Borrowers (as identified in the WIFIA Loan Agreement) to be financed as part of such first tranche of the WIFIA Loan (respectively, the “2022 WIFIA Projects” and the “2022 WIFIA Borrowers”), all pursuant to (i) the Act, (ii) the Financial Plan, (iii) this Resolution and (iv) that certain Indenture of Trust, by and between the I-Bank and the Trustee (as hereinafter defined) (the “2022 WIFIA Financing Program Indenture”), in order (a) to evidence and secure its repayment obligations with respect to the first tranche of the WIFIA Loan and (b) to finance that portion of the financing (that corresponds to the first tranche of the WIFIA Loan) for the allowable costs of the 2022 WIFIA Projects of the respective 2022 WIFIA Borrowers that shall not be made from proceeds of the first tranche of the WIFIA Loan or financing from the Department and that is necessary in order to ensure the successful completion of such 2022 WIFIA Projects; and

**WHEREAS**, on July 8, 2021, the Board of Directors of the I-Bank (the “Board of Directors” or the “Board”) duly adopted a resolution entitled “Resolution of the New Jersey Infrastructure Bank Authorizing Various Actions and Forms of Documents Necessary for Making SFY2021 Water Bank Loans From Proceeds of (i) I-Bank Environmental Infrastructure Bonds to be Issued in Fall 2021 and (ii) a WIFIA Loan to be Procured by the I-Bank from the United States Environmental Protection Agency”, which resolution, *inter alia*, approved the substantially final form of the I-Bank Loan Agreement pursuant to which I-Bank Loans shall be made by the I-Bank for the purpose of financing a portion of the allowable costs of the 2022 WIFIA Projects of the respective 2022 WIFIA Borrowers to be financed as part of the first tranche of the WIFIA Loan pursuant to the 2022 WIFIA Financing Program, and authorized 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 bylaws of the I-Bank (each, an “Authorized Officer”), to make such revisions and modifications to such form of I-Bank Loan Agreement pursuant to the delegation of authority as is provided and set forth in Section 1 of such resolution; and

**WHEREAS**, on April 14, 2022, the Board of Directors duly adopted a resolution (the “WIFIA Loan Agreement Authorizing Resolution”) entitled “Resolution of the New Jersey Infrastructure Bank (I) Authorizing the Revised Form of WIFIA Loan Agreement; (II) Authorizing the Revised Form of WIFIA Term Sheet (III) Authorizing the Execution and Delivery of the Revised Form of WIFIA Loan Agreement and the Revised

Form of WIFIA Term Sheet; (IV) Authorizing Certain Matters Relating to the Revised Form of Indenture; and (V) Directing Any Authorized Officer of the New Jersey Infrastructure Bank to Take Certain Actions in Accordance with the Foregoing”, which resolution, *inter alia*, approved the substantially final form of the WIFIA Loan Agreement and the substantially final form of the WIFIA Loan Term Sheet (as hereinafter defined), with a delegation of authority to the Authorized Officers with respect to certain amendments, modifications and revisions as is provided pursuant to the terms thereof; and

**WHEREAS**, in furtherance of the 2022 WIFIA Financing Program, the I-Bank intends to issue (i) its “Environmental Infrastructure Bonds, Series 2022 I-W1 (Taxable)” (the “Series 2022 I-W1 Bonds”) and (ii) its “Environmental Infrastructure WIFIA Financing Program Bonds, Series 2022C-W1 (Taxable)” (the “Series 2022C-W1 WIFIA Bonds”), which Series 2022 I-W1 Bonds and Series 2022C-W1 WIFIA Bonds shall be issued with an exact aggregate principal amount and an exact dated date thereof as shall be determined by an Authorized Officer upon the issuance thereof in accordance with the terms hereof, in order to finance a portion of the allowable costs of the 2022 WIFIA Projects of the respective 2022 WIFIA Borrowers, which Series 2022 I-W1 Bonds and Series 2022C-W1 WIFIA Bonds will be secured by the Trust Estate (as defined in the 2022 WIFIA Financing Program Indenture); and

**WHEREAS**, the Board of Directors, on May 9, 2019, adopted Resolution 19-29 entitled “Resolution of the New Jersey Infrastructure Bank Relating to the Water Bank Direct Loan Program” (the “Water Bank Direct Loan Policy Resolution”), to provide an alternative to the funding of a qualifying project (relating to Environmental Infrastructure Facilities) with the proceeds of I-Bank Bonds, which Water Bank Direct Loan Policy Resolution provides that the Board of Directors may, by official action of the Board, determine that it is in the administrative interests of the I-Bank for a qualifying project (relating to Environmental Infrastructure Facilities) to be financed with a direct loan (each, a “Water Bank Direct Loan”) as part of the direct loan initiative of the I-Bank (the “Water Bank Direct Loan Program”); and

**WHEREAS**, the I-Bank intends to make Water Bank Direct Loans in an aggregate amount not to exceed \$8,500,000 as a source of funding for the I-Bank Loan made to each 2022 WIFIA Borrower that is participating in the 2022 WIFIA Financing Program, and to secure the repayment of such Water Bank Direct Loans by issuing, purchasing and holding itself its Series 2022I-W1 Bonds; and

**WHEREAS**, the Board of Directors, on September 9, 2021, adopted Resolution No. 21-51 entitled “Resolution of the New Jersey Infrastructure Bank (I) Authorizing the Issuance and Sale of its Environmental Infrastructure Bonds in an Aggregate Principal Amount Not to Exceed \$96,000,000 and Consisting of (A) Environmental Infrastructure Bonds, Series 2021AW-1 and (B) Environmental Infrastructure WIFIA Financing Program Bonds, Series 2021CW-1 (Taxable), (II) Authorizing the Execution and Delivery of an Indenture of Trust in Connection with the Issuance of its Environmental Infrastructure Bonds, (III) Authorizing the Marketing and Sale of its Environmental Infrastructure Bonds, and (IV) Directing Any Authorized Officer of the New Jersey Infrastructure Bank to Take Certain Actions in Accordance with the Foregoing” (the “Initial Resolution”); and

**WHEREAS**, it is the desire of the Board of Directors, in furtherance of the foregoing with respect to the 2022 WIFIA Financing Program, that the Initial Resolution be amended and restated in its entirety for the purpose of amending certain provisions of the Initial Resolution in connection with the further development and implementation of the 2022 WIFIA Financing Program and that the Authorized Officers each be severally authorized and directed to act on behalf of the I-Bank, and implement (i) the execution and delivery of the documents described herein and approved hereby, (ii) the issuance and sale of the Series 2022 I-W1 Bonds and Series 2022C-W1 WIFIA Bonds pursuant to the terms and provisions and in the manner set forth herein, and

(iii) such other actions in connection with the foregoing or such other actions 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. The Recitals and the Initial Resolution.** The recitals of this Resolution are incorporated herein by reference as if set forth at length herein. The Initial Resolution is hereby amended and restated in its entirety pursuant to the terms and provisions of this Resolution.

**Section 2. Issuance of the Series 2022 I-W1 Bonds and Series 2022C-W1 WIFIA Bonds; 2022 WIFIA Financing Program Indenture.** (i) In furtherance of the 2022 WIFIA Financing Program, the Board hereby approves the issuance by the I-Bank of the Series 2022 I-W1 Bonds and Series 2022C-W1 WIFIA Bonds, for the purposes described in subsection (iv) hereof, in an aggregate principal amount not to exceed \$96,000,000, with such aggregate principal amount allocated as between the Series 2022 I-W1 Bonds and the Series 2022C-W1 WIFIA Bonds in an amount as shall be determined by an Authorized Officer in a manner that is consistent with the requirements of the WIFIA Loan Agreement and the provisions thereof relating to the first tranche to be drawn by the I-Bank pursuant to the terms thereof, provided that the Series 2022 I-W1 Bonds shall be issued in a principal amount that shall not exceed \$8,500,000. The Series 2022 I-W1 Bonds and Series 2022C-W1 WIFIA Bonds shall be issued (a) pursuant to the terms and provisions of the 2022 WIFIA Financing Program 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 amendments, modifications and revisions thereto as are permitted by the terms and provision of subsection (vi) hereof, and (b) in satisfaction of the terms and provisions of, and subject to the conditions precedent set forth in, (1) the Act, (2) rules and regulations, as applicable, now or hereafter promulgated under N.J.A.C. 7:22-3 *et seq.*, 7:22-4 *et seq.*, 7:22-5 *et seq.*, 7:22-6 *et seq.*, 7:22-7 *et seq.*, 7:22-8 *et seq.*, 7:22-9 *et seq.* and 7:22-10 *et seq.*, as the same from time to time may be amended and supplemented (the "Regulations"), (3) the Financial Plan and (4) this Resolution. The substantially final form of the 2022 WIFIA Financing Program Indenture that is authorized by and attached to any resolution of the I-Bank duly adopted by the Board prior to the date hereof and made a part thereof is hereby superseded and replaced by the substantially final form of the 2022 WIFIA Financing Program Indenture that is authorized hereby and attached hereto and made a part hereof.

(ii) The issuance by the I-Bank of the Series 2022 I-W1 Bonds pursuant to the 2022 WIFIA Financing Program Indenture shall be subject to the following terms and provisions: (1) the Series 2022 I-W1 Bonds shall be (a) issued by the I-Bank and (b) purchased and held by the I-Bank pursuant to the provisions of Section 5(n) of the Act; (2) the purchase by the I-Bank of the Series 2022 I-W1 Bonds shall be funded with certain funds available to the I-Bank pursuant to the Water Bank Direct Loan Program in an amount that shall not exceed \$8,500,000, all pursuant to the terms of the Water Bank Direct Loan Policy Resolution (as modified as and to the extent provided pursuant to the terms hereof), with such proceeds of the Series 2022 I-W1 Bonds allocated by the I-Bank toward the making of a Water Bank Direct Loan as a source of funding for the I-Bank Loan made to each 2022 WIFIA Borrower that is participating in the 2022 WIFIA Financing Program (all as more thoroughly addressed pursuant to subsection (iv) hereof), and the principal amount of the Water Bank Direct Loan allocated by the I-Bank as a source of funding for the I-Bank Loan made to each such 2022 WIFIA Borrower shall be in an amount as shall be determined by an Authorized Officer, provided that (a) the aggregate amount of the Water Bank Direct Loans shall not exceed the maximum amount made available, pursuant to the Water Bank Direct Loan Program, as set forth in the above provisions of this clause (2), and (b) the amount of each such Water Bank Direct Loan, as a source of funding for the I-Bank Loan made to a

2022 WIFIA Borrower, may exceed \$500,000 (and \$1,000,000 in the aggregate for all such loans made to a given 2022 WIFIA Borrower) notwithstanding the limitation thereon as set forth in the Water Bank Direct Loan Policy Resolution, and the making of such a Water Bank Direct Loan in excess of \$500,000 (and in excess of \$1,000,000 in the aggregate for all such loans made to a given 2022 WIFIA Borrower) is hereby authorized notwithstanding the limitations as set forth in the Water Bank Direct Loan Policy Resolution, but subject to the other limits set forth herein; (3) it currently is anticipated that the I-Bank shall hold the Series 2022 I-W1 Bonds until the final maturity thereof, which final maturity of the Series 2022 I-W1 Bonds shall not exceed six (6) years following the Effective Date (as defined in the WIFIA Loan Agreement); (4) the interest rate to be borne by the Series 2022 I-W1 Bonds shall be either (a) determined as provided by the Water Bank Direct Loan Policy Resolution with respect to the Water Bank Direct Loans to be made with the proceeds thereof or (b) consistent with the interest rate borne by the Series 2022C-W1 WIFIA Bonds as provided pursuant to subsection (iii) hereof (notwithstanding the limitations as set forth in the Water Bank Direct Loan Policy Resolution, which deviation therefrom is hereby authorized), as shall be determined by the Authorized Officer as being in the best interests of the 2022 WIFIA Financing Program, following consultation with Bond Counsel to the I-Bank, the Office of the Attorney General of the State, and the financial advisor to the I-Bank; (5) the Series 2022 I-W1 Bonds shall be issuable as fully registered bonds without coupons in denominations of \$1.00 or any whole multiple thereof; (6) the Series 2022 I-W1 Bonds and the interest thereon shall be transferable by and shall be payable to the registered owners thereof in the manner and with the effect provided in the 2022 WIFIA Financing Program Indenture; (7) each of the Series 2022 I-W1 Bonds shall be subject to mandatory and optional redemption at par prior to maturity as provided in the 2022 WIFIA Financing Program Indenture; (8) Zions Bancorporation, National Association d/b/a Zions Bank shall act as Trustee and Paying Agent, as defined in, and pursuant to the terms and provisions of, the 2022 WIFIA Financing Program Indenture, for the Series 2022 I-W1 Bonds; (9) the payment of the principal and redemption premium, if any, of and interest on the Series 2022 I-W1 Bonds shall be secured by the Trust Estate as defined in the 2022 WIFIA Financing Program Indenture as applicable to the Series 2022 I-W1 Bonds; and (10) the proceeds of the Series 2022 I-W1 Bonds may be invested as directed by an Authorized Officer as and to the extent provided in the 2022 WIFIA Financing Program Indenture until disbursed as provided by the terms of the 2022 WIFIA Financing Program Indenture.

(iii) The issuance by the I-Bank of the Series 2022C-W1 WIFIA Bonds pursuant to the 2022 WIFIA Financing Program Indenture shall be subject to the following terms and provisions: (1) the Series 2022C-W1 WIFIA Bonds shall be sold via a negotiated, private sale as provided by Section 6(d) of the Act and pursuant to the provisions of the WIFIA Loan Agreement relating to such negotiated, private sale, with such Series 2022C-W1 WIFIA Bonds placed by the I-Bank with the USEPA via such negotiated, private sale to evidence and secure the repayment obligations of the I-Bank pursuant to the WIFIA Loan Agreement in connection with the first tranche thereunder; (2) the proceeds of the Series 2022C-W1 WIFIA Bonds shall be allocated by the I-Bank as a source of funding for the I-Bank Loan made to each 2022 WIFIA Borrower that is participating in the 2022 WIFIA Financing Program (all as more thoroughly addressed pursuant to subsection (iv) hereof); (3) the final maturity of the Series 2022C-W1 WIFIA Bonds shall not exceed 35 years from the date of their issuance; (4) the interest rate to be borne by the Series 2022C-W1 WIFIA Bonds shall be calculated as provided pursuant to the terms of that certain Term Sheet, by and between the I-Bank and the USEPA (the "WIFIA Loan Term Sheet"), as such WIFIA Loan Term Sheet was approved by the I-Bank pursuant to the terms and provisions of the WIFIA Loan Agreement Authorizing Resolution, which interest rate shall not exceed 5% per annum, subject to any "penalty" or "default" rate as provided by the terms of the 2022 WIFIA Financing Program Indenture, including, without limitation, the Default Rate (as defined in the WIFIA Loan Agreement and the 2022 WIFIA Financing Program Indenture), which Default Rate shall be applicable to the Series 2022C-W1 WIFIA Bonds as and to the extent provided in the 2022 WIFIA Financing Program Indenture; (5) the Series 2022C-W1 WIFIA Bonds shall be issuable as fully registered bonds without coupons in denominations of \$1.00 or any

whole multiple thereof; (6) the Series 2022C-W1 WIFIA Bonds and the interest thereon shall be transferable by and shall be payable to the registered owners thereof in the manner and with the effect provided in the 2022 WIFIA Financing Program Indenture; (7) the Series 2022C-W1 WIFIA Bonds shall be subject to mandatory and optional prepayment and redemption at par prior to maturity as provided in the 2022 WIFIA Financing Program Indenture; (8) Zions Bancorporation, National Association d/b/a Zions Bank shall act as Trustee and Paying Agent, as defined in, and pursuant to the terms and provisions of, the 2022 WIFIA Financing Program Indenture, for the Series 2022C-W1 WIFIA Bonds; (9) the payment of the principal and redemption premium, if any, of and interest on the Series 2022C-W1 WIFIA Bonds shall be secured by the Trust Estate as defined in the 2022 WIFIA Financing Program Indenture as applicable to the Series 2022C-W1 WIFIA Bonds; (10) the liability of the I-Bank with respect to the Default Rate, if any, shall be secured by the Default Rate Debt Service Reserve Fund (as defined in the 2022 WIFIA Financing Program Indenture) and shall be paid exclusively therefrom, which Default Rate Debt Service Reserve Fund (A) shall be funded by the I-Bank as and to the extent required by the terms and provisions of the 2022 WIFIA Financing Program Indenture and from the sources identified therein, and (B) shall be pledged by the terms of the 2022 WIFIA Financing Program Indenture for the exclusive purpose of securing the liability of the I-Bank with respect to the Default Rate, if any; and (11) the proceeds of the Series 2022C-W1 WIFIA Bonds may be invested as directed by an Authorized Officer as and to the extent provided in the 2022 WIFIA Financing Program Indenture until disbursed as provided by the terms of the 2022 WIFIA Financing Program Indenture.

(iv) The proceeds of the Series 2022 I-W1 Bonds and Series 2022C-W1 WIFIA Bonds shall be used by the I-Bank to fund the I-Bank Loan made to each 2022 WIFIA Borrower that is participating in the 2022 WIFIA Financing Program, for the purpose of (A) financing a portion of the cost of the 2022 WIFIA Project thereof and (B) financing a portion of the costs of issuance of the Series 2022 I-W1 Bonds and Series 2022C-W1 WIFIA Bonds. The 2022 WIFIA Borrowers that shall participate in the 2022 WIFIA Financing Program shall be selected by an Authorized Officer, after consultation with Bond Counsel to the I-Bank and the Office of the Attorney General of the State, as being compliant with the terms and provisions of the Act, the Regulations, the Financial Plan, the WIFIA Act, the WIFIA Loan Agreement and all other applicable law.

(v) In the event that an Authorized Officer determines, after consultation with Bond Counsel to the I-Bank and the Office of the Attorney General of the State, that it is in the best interests of the I-Bank (A) to designate the Series 2022 I-W1 Bonds as “Green Bonds”, such Series 2022 I-W1 Bonds shall be designated by the title, “Environmental Infrastructure Bonds, Series 2022 I-W1 (Green Bonds) (Taxable)”, and/or (B) to designate the Series 2022C-W1 WIFIA Bonds as “Green Bonds”, such Series 2022C-W1 WIFIA Bonds shall be designated by the title, “Environmental Infrastructure WIFIA Financing Program Bonds, Series 2022C-W1 (Green Bonds) (Taxable)”.

(vi) An Authorized Officer may make such amendments, modifications and revisions to the form of the 2022 WIFIA Financing Program Indenture as submitted to the Board in connection with this meeting and as approved by the Board pursuant to the terms of this Resolution, prior to or simultaneously with the final execution and delivery thereof by such Authorized Officer and/or the issuance of the Series 2022 I-W1 Bonds and Series 2022C-W1 WIFIA Bonds, (a) as may be requested by any Rating Agency in connection with obtaining a rating of any Series 2022 I-W1 Bonds and Series 2022C-W1 WIFIA Bonds from such Rating Agency, (b) as shall be required by the USEPA as necessary and appropriate for purposes of execution by the I-Bank of the WIFIA Loan from the USEPA pursuant to the terms and provisions of the WIFIA Loan Agreement, or (c) as such Authorized Officer may determine, in consultation with the Chairperson of the I-Bank, the Office of the Attorney General of the State and Bond Counsel to the I-Bank, and as are necessary or advisable in order (1) to reflect the actual provisions of this Resolution that shall be applicable to the Series 2022 I-W1 Bonds and

Series 2022C-W1 WIFIA Bonds or (2) to facilitate the WIFIA Loan and the issuance and sale of the Series 2022 I-W1 Bonds to the I-Bank and Series 2022C-W1 WIFIA Bonds to USEPA; provided, however, (A) certain legal requirements identified by the USEPA, including, without limitation, indemnification, sovereign immunity, and choice of law, which have not yet been resolved by the parties, will be resolved by the Authorized Officer with the advice of Bond Counsel to the I-Bank and the Office of the Attorney General of the State, and (B) no such amendments, modifications or revisions shall be inconsistent with the provisions of (i) the Act, (ii) the Regulations, (iii) the Financial Plan, (iv) this Resolution, and (v) the WIFIA Loan Term Sheet. If amendments, modifications, or revisions, other than those specified herein, are material and are sought to be made by an Authorized Officer to material terms of the 2022 WIFIA Financing Program Indenture, such amendments, modifications, or revisions shall be subject to future Board action via the adoption of an approving authorizing resolution by the Board.

**Section 3. Approval, Execution and Delivery of the Series 2022 I-W1 Bonds and Series 2022C-W1 WIFIA Bonds, the 2022 WIFIA Financing Program 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 2022 WIFIA Financing Program Indenture, in conformity with the terms and provisions set forth in Section 2 hereof; and

(b) the Series 2022 I-W1 Bonds and Series 2022C-W1 WIFIA Bonds, (1) in conformity with the terms and provisions set forth in Section 2 hereof and (2) substantially in the form of Exhibit A to the 2022 WIFIA Financing Program Indenture, with respect to the Series 2022 I-W1 Bonds, and substantially in the form of Exhibit B to the 2022 WIFIA Financing Program Indenture, with respect to the Series 2022C-W1 WIFIA Bonds; and

(c) 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, (2) the 2022 WIFIA Financing Program Indenture and (3) the Series 2022 I-W1 Bonds and Series 2022C-W1 WIFIA Bonds, so as to affect the transactions contemplated hereby and thereby, and to issue, sell and deliver the Series 2022 I-W1 Bonds and Series 2022C-W1 WIFIA Bonds.

The execution of the 2022 WIFIA Financing Program Indenture, the WIFIA Financing Program 2022 Bonds 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. Purchase of the Series 2022 I-W1 Bonds.** In furtherance of the purchase by the I-Bank of its Series 2022 I-W1 Bonds, as provided by the terms and provisions of Section 2(ii) hereof, the Authorized Officers are hereby severally authorized and directed to undertake such action as shall be necessary and appropriate in connection with the purchase by the I-Bank, and the holding thereof, of the Series 2022 I-W1 Bonds, pursuant to the provisions of Section 5(n) of the Act.

**Section 5. Negotiated, Private Sale of the Series 2022C-W1 WIFIA Bonds.** In furtherance of the negotiated, private sale of the Series 2022C-W1 WIFIA Bonds by the I-Bank to the USEPA, as provided by the terms and provisions of Section 2(iii) hereof, the Authorized Officers are hereby severally authorized and

directed to undertake such action as shall be necessary and appropriate in connection with the placement of the Series 2022C-W1 WIFIA Bonds by the I-Bank with the USEPA, as a negotiated, private sale thereof, pursuant to and in satisfaction of the terms and provisions of the 2022 WIFIA Financing Program Indenture, the WIFIA Loan Agreement and Section 6(d) of the Act.

**Section 6. 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 Regulations, the Financial Plan and this Resolution) in order to effect the issuance, sale and purchase of the Series 2022 I-W1 Bonds and Series 2022C-W1 WIFIA Bonds and to further the intent and purposes of this Resolution.

**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:	April 14, 2022
Motion Made By:	Mr. Mark Longo
Motion Seconded By:	Mr. Walter Brown
Ayes:	6
Nays:	0
Abstentions:	0



**EXHIBIT A**

**FORM OF 2022 WIFIA FINANCING PROGRAM INDENTURE**

**NJ I-Bank April 8, 2022 Revisions  
to its Prior April 6, 2022 Distribution**

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**NEW JERSEY INFRASTRUCTURE BANK**

**and**

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

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**INDENTURE OF TRUST**

**Dated: [ ], 202[ ]**

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**\$[ ]**

[Environmental Infrastructure Bonds, Series 202[ ] I-W1 (Green Bonds) (Taxable)]

[Environmental Infrastructure Bonds, Series 202[ ] A-W1 (Green Bonds)]

**\$[ ]**

Environmental Infrastructure WIFIA Financing Program Bonds,

Series 202[ ] C-W1 (Green Bonds) (Taxable)

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## INDENTURE OF TRUST

This **INDENTURE OF TRUST** (this “Indenture,” as defined herein), dated [ ], 202[ ], 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 and 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”).

### RECITALS

**WHEREAS**, in furtherance of the “New Jersey Water Bank 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 (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 bond resolution, duly adopted by the Board of Directors of the I-Bank pursuant to and in accordance with Section 6(c) of the Act, and (iii) a financial plan developed pursuant to and in accordance with Sections 21, 21.1, 22 and 22.1 of the Act, and approved by a concurrent resolution duly adopted by the Legislature of the State of New Jersey, the I-Bank may issue its revenue bonds, from time to time, for the purpose of making loans to qualifying borrowers from the proceeds of such revenue bonds in order to finance a portion of the allowable costs of the construction, acquisition, installation and renovation of such borrowers’ environmental infrastructure facilities (“Environmental Infrastructure Facilities”) (consisting of Wastewater Treatment Facilities, Stormwater Management Facilities or Water Supply Facilities, as such terms are defined in the rules and regulations promulgated by the I-Bank (N.J.A.C. 7:22-3 *et seq.*, 7:22-4 *et seq.*, 7:22-5 *et seq.*, 7:22-6 *et seq.*, 7:22-7 *et seq.*, 7:22-8 *et seq.*, 7:22-9 *et seq.* and 7:22-10 *et seq.*, as the same may be amended and supplemented from time to time (collectively, the “Regulations”)); 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 such revenue bonds and for their payment and security; and

**WHEREAS**, in furtherance of the Financing Program and the financing, pursuant thereto, of a portion of the allowable costs of certain projects (which projects are identified in the hereinafter defined WIFIA Loan Agreement) (the “WIFIA Projects”) consisting of the construction, acquisition, installation and renovation of the Environmental Infrastructure Facilities of certain qualifying borrowers (which qualifying borrowers are identified in the hereinafter defined WIFIA Loan Agreement) (the “WIFIA Borrowers”), the I-Bank has successfully applied for a loan (the “WIFIA Loan”) to be made by the United States Environmental Protection Agency, an agency of the United States of America, acting by and through the Administrator of the Environmental Protection Agency (the “USEPA”) to the I-Bank in an aggregate principal amount not to exceed \$221,323,600, pursuant to and in accordance with the federal Water Infrastructure Finance and Innovation Act, as amended by Section 1445 of the Fixing America’s Surface Transportation Act of 2015, as further amended by Section 5008 of the Water Infrastructure Improvements For the Nation Act of 2016 and by Section 4201 of America’s Water Infrastructure Act of 2018 (collectively, as the same may be further amended from time to time, “WIFIA Act”), which is codified as 33 U.S.C. §§ 3901-3914, the terms and provisions of which WIFIA Loan, including, without limitation, the repayment obligations of the I-Bank to the USEPA with respect to such WIFIA Loan, are set forth in that certain WIFIA Loan Agreement, dated \_\_\_\_\_, 2022 (the “WIFIA Loan Agreement”), by and between the USEPA and the I-Bank; and

**WHEREAS**, the I-Bank intends to draw the proceeds of the WIFIA Loan from the USEPA, pursuant to no more than three tranches, as permitted pursuant to the terms and provisions of the WIFIA Loan Agreement; and

**WHEREAS**, the repayment obligations of the I-Bank to the USEPA with respect to such WIFIA Loan (and each tranche thereof) shall be evidenced and secured by a revenue bond to be issued by the I-Bank to the USEPA; and

**WHEREAS**, as a condition to such WIFIA Loan by the USEPA to the I-Bank, and in satisfaction of certain requirements of the WIFIA Act and the WIFIA Loan Agreement, the I-Bank, in partnership with the New Jersey Department of Environmental Protection (the "Department"), is required to provide, from other available sources, that portion of the financing for the allowable costs of the WIFIA Project of each respective WIFIA Borrower that shall not be made from proceeds of the WIFIA Loan and that is necessary in order to ensure the successful completion of such WIFIA Projects; and

**WHEREAS**, in furtherance of the Financing Program and in order to satisfy its obligations pursuant to the WIFIA Act and the WIFIA Loan Agreement, the I-Bank has determined to issue its Bonds (as herein defined), as and to the extent authorized by (i) the Act, (ii) the Financial Plan (as herein defined), (iii) the Bond Resolution (as herein defined) and (iv) this Indenture, in order (a) to evidence and secure its repayment obligations with respect to the [first][second][third] tranche of the WIFIA Loan and (b) to finance that portion of the allowable costs of certain WIFIA Projects of the respective WIFIA Borrowers that shall not be financed from proceeds of either (1) such [first][second][third] tranche of the WIFIA Loan or (2) financing from the Department and that is necessary in order to ensure the successful completion of such WIFIA Projects[ and, specifically, the financing of such portion of the allowable costs of certain WIFIA Projects of the respective WIFIA Borrowers through direct loans by the I-Bank, pursuant to the Water Bank Direct Loan Program of the I-Bank, which direct loans shall be funded with proceeds of Bonds issued hereunder and which direct loan repayment obligations will be secured by such Bonds held by the I-Bank as purchaser and Holder thereof pursuant to the terms of this Indenture]; and

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

**WHEREAS**, all things necessary to make the Bonds, when authenticated by the Trustee and issued as in this Indenture provided, the valid, binding and legal obligations of the I-Bank according to the import thereof, and to constitute this Indenture a valid assignment and pledge of the amounts assigned and pledged to the payment of the principal of, premium, if any, and interest on the Bonds have been done and performed, and the creation, execution and delivery of this Indenture, and the creation, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

## **GRANTING CLAUSES**

### **NOW, THEREFORE, THIS 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 holders and owners 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 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 this



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 I-Bank's right, title and interest in the Administrative Fee;

#### **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 this Indenture (other than the Project Loan Accounts in the Project Funds, the Administrative Fee Account and the Costs of Issuance Account in the Operating Expense Fund, and the Rebate Fund), including investments, if any, thereof, subject only to the provisions of this Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in this Indenture, including, without limitation, the provisions hereof pursuant to which the Default Rate Debt Service Reserve Fund (funded as and to the extent required pursuant to the terms hereof) is pledged hereby solely and exclusively to secure the payment liability of the I-Bank with respect to any Default Rate Liability that may be applicable (as and when required hereby) to the Series 202[ ] Financing Program WIFIA Bonds and any Series of Refunding Bonds issued in connection therewith;

#### **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;

**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**, however, on the terms and conditions herein for the equal and proportionate benefit, security and protection of the Bondholders from time to time of the Bonds Outstanding, without preference, priority or distinction as to participation in the lien, benefit and protection of this Indenture of one Bond over or from the others, except as herein otherwise expressly provided. The I-Bank hereby covenants and agrees with the Trustee and with the respective Bondholders, from time to time, of the Bonds as follows:

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## ARTICLE I

### DEFINITIONS AND RULES OF INTERPRETATION

#### SECTION 1.01 Definitions.

(a) Unless the context otherwise requires, for all purposes of this Indenture, the following capitalized terms shall have the respective meanings as set forth in the recitals hereof:

Act  
Department  
Environmental Infrastructure Facilities  
Financing Program  
I-Bank  
Regulations  
Trustee  
USEPA  
WIFIA Act  
WIFIA Borrowers  
WIFIA Loan  
WIFIA Loan Agreement  
WIFIA Projects

(b) Unless the context otherwise requires, for all purposes of this Indenture, the terms defined in this Section 1.01(b) shall have the meanings specified below:

**“Account”** means any account designated and established hereunder.

**“Administrative Fee”** means an annual fee established by, and pursuant to the terms of, the Financial Plan as a percentage of the initial principal amount of the Applicable Loan, payable to the I-Bank by the Applicable Borrower in accordance with the terms of its Loan Agreement.

**“Administrative Fee Account”** means the Account within the Operating Expense Fund so designated and established by Article V hereof.

**“Allocable Share”** for any Borrower means, with respect to the Net Earnings on all Funds, Accounts and Subaccounts that are subject to transfer and credit in accordance with Sections 5.10(3) and (4) hereof, the percentage as calculated for each such Borrower for each respective Bond Year, which percentage shall be equal to a fraction, the numerator of which shall equal the then-current principal amount due and owing during such Bond Year with respect to the Loan for, as the case may be, (i) such Clean Water SRF Borrower, (ii) such Drinking Water SRF Borrower, (iii) such Clean Water non-SRF Borrower or (iv) such Drinking Water non-SRF Borrower, and the denominator of which shall equal (1) the aggregate of the then-current principal amount due and owing during such Bond Year with respect to all Loans for, as applicable, (i) all Clean Water SRF Borrowers, (ii) all Drinking Water SRF Borrowers, (iii) all Clean Water non-SRF Borrowers or (iv) all Drinking Water non-SRF Borrowers, less (2) the original principal amount of the Loan for any such Borrower that, as of the date of calculation hereof, no longer has an outstanding Loan. The calculation of the Allocable Share, as provided by the terms hereof, shall be performed by an Authorized Officer of the I-Bank, or a designee thereof, (A) on September 2 of a given Bond Year if, since the prior March 1, a Borrower has satisfied in full all of its repayment obligations with respect to its Loan and such Loan, therefore, is no longer outstanding, or (B) March 2 of a given Bond Year if, since the prior September 1, a Borrower has satisfied in full all of its repayment obligations with respect

to its Loan and such Loan, therefore, is no longer outstanding. The Allocable Share for each Borrower, calculated as of the date of issuance of the Series 202[ ] Bonds, and subject to future modification in accordance with the terms hereof, is set forth in Schedule I hereto.

**“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 hereof in the context hereof, (ii) with reference to any Series of Bonds (or Series 202[ ] Bonds), the particular Series of Bonds (or Series 202[ ] Bonds) that is at issue for the purposes of the application of the terms hereof in the context hereof, (iii) with reference to any Fund, Account or Subaccount so designated and established by this 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 hereof in the context hereof, (iv) with reference to any Borrower, the particular Borrower that is at issue for the purposes of the application of the terms hereof in the context hereof, 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 hereof in the context hereof.

**“Authorized Newspapers”** means three general newspapers and one financial newspaper, all of which are customarily published at least once a day for at least five days (other than legal holidays) in each calendar week, printed in the English language and of general circulation, with respect to the general newspapers, in the State of New Jersey, and with respect to the financial newspaper, in the State of New Jersey or the Borough of Manhattan, City and State of New York.

**“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 this 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; (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; and (iii) in the case of the Trustee, any person or persons 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.

**“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 this Indenture shall be given by law.

**“Bond”** or **“Bonds”** means one or more, as the case may be, of the Series 202[ ] Financing Program Bonds, the Series 202[ ] Financing Program WIFIA Bonds or a Series of Refunding Bonds issued hereunder in connection therewith, and all bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III or Sections 4.07 or 11.10 hereof.

**“Bond Counsel”** means a law firm, appointed by the I-Bank, having a reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds.

**“Bondholder”**, **“Holder”** or **“holder”** means any person who shall be the registered owner of a Bond or Bonds[, including without limitation, I-Bank as a holder of Series 202[ ] Financing Program Bonds].

**“Bond Resolution”** means that certain [“Resolution of the New Jersey Infrastructure Bank Authorizing the Issuance and Sale of its [Environmental Infrastructure Bonds, Series 202[ ] I-W1 (Green Bonds) (Taxable)] [Environmental Infrastructure Bonds, Series 202[ ]A-W1 (Green Bonds)] and its Environmental Infrastructure WIFIA Financing Program Bonds, Series 202[ ]C-W1 (Green Bonds) (Taxable)”, as adopted by the Board on [ ], 202[ ], and all amendments and supplements thereto adopted in accordance with the provisions thereof.

**“Bond Year”** means a period of 12 consecutive months beginning on September 1 of any calendar year and ending on August 31 of the immediately succeeding calendar year, except that the first bond year shall be a period commencing on the date of issuance of the initial Series of Bonds hereunder and ending on the next succeeding August 31.

**“Borrower”** means any Local Government Unit or Public Water Utility (as such terms are defined in the Act) authorized to construct, operate and maintain environmental infrastructure facilities and that has entered into a Loan Agreement with the I-Bank pursuant to which such Borrower will borrow money from the Project Fund that has been funded through the issuance of the Series 202[ ] Bonds. The municipal Local Government Unit Borrowers are identified on Schedule A-1 attached hereto. The authority Local Government Unit Borrowers are identified on Schedule A-2 attached hereto. The Public Water Utility Borrowers are identified on Schedule A-3 attached hereto. Each such Schedule shall identify the respective Borrower’s Project number assigned thereto by the Department and the status of such Borrower as either an SRF Borrower or a non-SRF Borrower.

**“Borrower’s Project”** means the project of the Borrower described in Exhibit A-1 to the Applicable Loan Agreement, which constitutes a project 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, Sunday or legal holiday in the State or a day on which banking institutions, in the city in which the Principal Office of the Trustee, the Paying Agent, the WIFIA Master Program Trustee or the Master Program Trustee is located, are closed, or (ii) a day on which the New York Stock Exchange is closed.

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

**“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.

**“Clearing Account”** means the account so designated and established by Section 5.04(1) hereof.

**“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.

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

**“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 (without limitation) costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of the Trustee, and the Paying Agent, legal fees and charges, fees and disbursements of financial or other consultants and professionals, fees and charges for preparation, execution and safekeeping of the Bonds of such Series and any other cost, charge or fee in connection with the issuance of such Series of 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, the WIFIA Master Program Trustee, the Master Program Trustee 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.

**“Debt Service Fund”** means each fund so designated and established by Article V 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 9.01 hereof.

**“Default Rate”** means, with respect to the Series 202[ ] Financing Program WIFIA Bonds only (and any Series of Refunding Bonds issued in connection therewith), and only as long as such Bonds are held by the USEPA or a Federal Agency, an interest rate equal to the sum of (a) the WIFIA Interest Rate plus (b) two hundred (200) basis points.

**“Default Rate Debt Service Reserve Fund”** means the fund so designated and established by Article V hereof.

**“Default Rate Debt Service Reserve Fund Requirement”** means, with respect to the Series 202[ ] Financing Program WIFIA Bonds only (and any Series of Refunding Bonds issued in connection therewith), an amount determined, upon the occurrence of a Default Rate Debt Service Reserve Trigger Event, as equal to the aggregate of the Default Rate Liability that is calculated with respect to the next two (2) consecutive Interest Payment Dates, which Default Rate Debt Service Reserve Fund Requirement shall be deposited into the Default Rate Debt Service Reserve Fund and maintained therein as provided pursuant to the terms of Section 5.07 hereof.

**“Default Rate Debt Service Reserve Trigger Event”** means, with respect to the Series 202[ ] Financing Program WIFIA Bonds only (and any Series of Refunding Bonds issued in connection therewith), and only as long as such Bonds are held by the USEPA or a Federal Agency, the aggregate amount on deposit, as of on any March 1 or September 1, in the Master Program Trust Account (after taking into account deposits made to the Master Program Trust Account on such date) is equal to or less than ten percent (10%) of the aggregate amount that is projected to be on deposit therein in accordance with Appendix A-1 to the Master Program Trust Agreement, as such Appendix A-1 is amended or updated from time to time to reflect the then current outstanding Fund Loans pursuant to Coverage Providing Financing Programs (as such terms are defined in the Master Program Trust Agreement).

**“Default Rate Liability”** means a default interest liability that is due and payable pursuant to the terms hereof in an amount equal to that portion of the Default Rate that is in excess of the WIFIA Interest

Rate, as calculated with respect to the aggregate of the Outstanding principal amount of the Series 202[ ] Financing Program WIFIA Bonds (and any Series of Refunding Bonds issued in connection therewith), plus any previously accrued interest thereon that is past due, which default interest liability shall accrue upon the occurrence and continuation of either a Payment Default or a Development Default and shall apply only to the extent that, and as long as, such Bonds are held by the USEPA or a Federal Agency, all as further defined in Section 2.03(A)(2) hereof.

**“Development Default”** means, with respect to the Series 202[ ] Financing Program WIFIA Bonds only (and any Series of Refunding Bonds issued in connection therewith) and only applicable as long as such Bonds are held by the USEPA or a Federal Agency, the failure by the I-Bank and the State to make Loans to Borrowers (irrespective of whether the costs of each related Borrower’s Project was funded, directly or indirectly, with proceeds of the Series 202[ ] Financing Program WIFIA Bonds) that in the aggregate are equal to at least 2.04081633 multiplied by the total principal amount of the proceeds of the Series 202[ ] Financing Program WIFIA Bonds disbursed pursuant to the terms hereof as of the sixth (6<sup>th</sup>) anniversary of the “Effective Date” as defined in the WIFIA Loan Agreement (such date being \_\_\_\_\_, 2028).

**“DTC”** means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, in its capacity as securities depository for the Series 202[ ] Financing Program Bonds, as and to the extent provided herein.

**“Event of Default”** means any occurrence or event designated as such in Section 9.01.

**“Federal Agency”** means any department, agency or instrumentality of the federal government of the United States of America, other than the USEPA, 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.

**“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 the Series 202[ ] Financing Program Bonds and the Series 202[ ] Financing Program WIFIA Bonds, and any Series of Refunding Bonds, shall be issued pursuant hereto, which financial plan shall be prepared as required by, and in accordance with, Sections 21, 21.1, 22 and 22.1 of the Act, and approved by a concurrent resolution duly adopted by the Legislature of the State.

**“Fund”** means any Fund designated and established hereunder.

**“General Fund”** means each Fund so designated and established by Article V hereof.

**“I-Bank Bond Loan Repayments”** means the repayments of the principal amount of a Loan under a Loan Agreement, the payment of any premium associated with prepaying the principal amount of a Loan in accordance with Section 3.07 of any Loan Agreement, plus the payments of the Interest Portion of a Loan under a Loan Agreement.

**“I-Bank Contributions Account”** means the Account within the Default Rate Debt Service Reserve Fund so designated and established by Article V hereof.

**“Indenture”** means this Indenture of Trust, as amended, supplemented, amended and restated, or otherwise modified from time to time.

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

**“Interest Payment Date”** means, with respect to a particular Series of Bonds, each March 1 and September 1, until final maturity of such Series of Bonds, commencing on the date specified, as applicable, in Section 2.03(2) hereof, Section 2.03A(2) hereof or, in the case of any Series of Refunding Bonds, in the Applicable Supplemental Indenture.

**“Interest Portion”** means that portion of I-Bank Bond Loan Repayments payable by a Borrower under such Borrower’s Loan Agreement that is necessary to pay any such Borrower’s proportionate share of interest on the Bonds (i) as set forth in Exhibit A-2 of any such Loan Agreement under the column heading entitled “Interest”, or (ii) with respect to any prepayment or acceleration, as the case may be, of I-Bank Bond Loan Repayments in accordance with Section 3.07 or 5.03 of any such Loan Agreement, to accrue on any principal amount of I-Bank Bond Loan Repayments to the date of the redemption or acceleration, of the Bonds allocable to such prepaid or accelerated I-Bank Bond Loan Repayment.

**“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) Obligations of, or obligations guaranteed as to principal and interest by, the United States or any agency or instrumentality thereof which obligations are backed by the full faith and credit of the United States. These include, but are not limited to:

- (i) United States Treasury obligations – All direct or fully guaranteed obligations;
- (ii) Farmers Home Administration – Certificates of beneficial ownership;
- (iii) United States Maritime Administration – Guaranteed Title XI financing;
- (iv) Small Business Administration – Guaranteed participation certificates; Guaranteed pool certificates;
- (v) Government National Mortgage Association (GNMA) – GNMA-guaranteed mortgage-backed securities; GNMA-guaranteed participation certificates;
- (vi) United States Department of Housing & Urban Development – Local authority bonds;
- (vii) Washington Metropolitan Area Transit Authority – Guaranteed transit bonds;
- (viii) State and Local Government Series; and
- (ix) Veterans Administration – Guaranteed REMIC; Pass-through Certificates.

(b) Federal Housing Administration Debentures.

(c) Obligations of the following government-sponsored agencies that are not backed by the full faith and credit of the United States government.

- (i) Federal Home Loan Mortgage Corp. (FHLMC) – Participation certificates (excluded are stripped mortgage securities which are purchased at prices exceeding their principal amounts); Senior debt obligations;
  - (ii) Farm Credit System (Formerly: Federal Land Banks, Federal Intermediate Credit Banks, and Banks for Cooperative) – Consolidated systemwide bonds and notes;
  - (iii) Federal Home Loan Banks (FHL Banks) – Consolidated debt obligations;
  - (iv) Federal National Mortgage Association (FNMA) – Senior debt obligations; Mortgage-backed securities (Excluded are stripped mortgage securities which are purchased at prices exceeding their principal amounts);
  - (v) Student Loan Marketing Association (SLMA) – Senior debt obligations (Excluded are securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date); LOC-backed issues;
  - (vi) Financing Corp. (FICO) – Debt obligations; and
  - (vii) Resolution Funding Corp. (REFCORP) – Debt obligations.
- (d) Federal funds, unsecured certificates of deposit, time deposits, and banker's acceptances having maturities of not more than 365 days of any bank (including the Trustee), the short-term obligations of which are rated in the highest rating category for short term obligations by at least one Rating Agency.
- (e) Deposits that are fully insured by the Federal Deposit Insurance Corp. (FDIC), including Bank Insurance Fund (BIF) and Savings Association Insurance Fund (SAIF). To the extent that such deposits are not insured by FDIC, such deposits shall be fully collateralized by the obligations described in any of paragraphs (a), (b) or (c) of this definition.
- (f) (i) Debt obligations rated in the highest rating category for debt obligations by at least one Rating Agency. Excluded are securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date.
- (ii) Pre-refunded municipal securities rated in the highest rating category for municipal securities by at least one Rating Agency.
- (g) Commercial paper or other debt obligations rated in the highest rating category for commercial paper or debt obligations by at least one Rating Agency maturing in not more than 365 days.
- (h) Investment in money market funds, with a stable net asset value per share, rated in the highest rating category for money market funds by at least one Rating Agency (including such money markets funds managed by the Trustee or any of its affiliates).
- (i) Any of the following stripped securities:
- (i) United States Treasury STRIPS;
  - (ii) REFCORP STRIPS (stripped by the Federal Reserve Bank of New York); and
  - (iii) Any stripped securities assessed or rated in the highest rating category for stripped securities by at least one Rating Agency.



(j) Repurchase agreements, provided that such repurchase agreements satisfy each of the following requirements:

(i) The counterparty to the repurchase agreement is rated no lower than “Aa” by Moody’s Investors Service, Inc., “AA” by Standard & Poor’s Corporation or “AA” by Fitch Ratings, Inc. (without reference to any gradation within such rating category);

(ii) The weighted average maturity of the repurchase agreement is not longer than the lesser of the estimated average period required to complete construction of the WIFIA Projects or five years from the date the repurchase agreement is entered into;

(iii) The seller of the repurchase agreement is (A) a bank or trust company or a wholly-owned subsidiary of such bank or trust company which is headquartered in the United States and is a member of the Federal Reserve System or (B) a securities broker which is headquartered in the United States, is registered with the Securities and Exchange Commission, and meets the criteria for issuers of “commercial paper” as specified under N.J.A.C. 17:16-31;

(iv) The collateral for the repurchase agreement consists of obligations of the United States Government or an obligation of the following United States Government agencies:

(A) Federal Farm Credit Banks Consolidated Systemwide Bonds;

(B) Federal Financing Bank;

(C) Federal Home Loan Banks; and

(D) Federal Land Banks;

(v) At the time the repurchase agreement is purchased, the market value of the securities delivered as collateral pursuant to the repurchase agreement is equal to at least 102 percent of the par value of the repurchase agreement; and

(vi) The repurchase agreement shall be purchased pursuant to a competitively bid process.

(k) Such other securities approved by each of the Rating Agencies that would not adversely affect the rating on the Coverage Receiving Trust Bonds (as defined in the Master Program Trust Agreement) then Outstanding.

**“Loan”** means a loan by the I-Bank to a Borrower, pursuant to the Applicable Loan Agreement, to finance or refinance a portion of the Cost of such Borrower’s Project. For all purposes of this Indenture, the principal amount of each Loan shall be the principal amount specified in the applicable bond of a Borrower issued in accordance with the Applicable Loan Agreement.

**“Loan Agreement”** means a loan 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 finance, in part, such Borrower’s Project, as such Loan Agreement may be amended, modified or supplemented from time to time in accordance with the provisions thereof and of this Indenture.

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

**“Loan Repayments”** means the sum of (i) I-Bank Bond Loan Repayments, (ii) the Administrative Fee and (iii) any late charges incurred under the provisions of a Loan Agreement.

**“Master Program Trust Account”** means the account and all subaccounts therein created pursuant to Section 3 of the Master Program Trust Agreement to be held by the Master Program Trustee in trust as additional security for the Holders of the Series 202[ ] Bonds and all other “Coverage Receiving Trust Bonds” as defined in the Master Program Trust Agreement.

**“Master Program Trust Agreement”** shall mean that certain Master Program Trust Agreement, dated as of November 1, 1995, by and among the I-Bank, the State, United States Trust Company of New York, as Master Program Trustee thereunder, The Bank of New York (NJ), in several capacities thereunder, and First Fidelity Bank, N.A. (predecessor to U.S. Bank National Association), in several capacities thereunder, as amended and supplemented by (i) that certain Agreement of Resignation of Outgoing Master Program Trustee, Appointment of Successor Master Program Trustee and Acceptance Agreement, dated as of November 1, 2001, by and among United States Trust Company of New York, as Outgoing Master Program Trustee, State Street Bank and Trust Company, N.A. (predecessor to U.S. Bank Trust National Association), as Successor Master Program Trustee, and the I-Bank, (ii) that certain First General Amendment to Master Program Trust Agreement, dated as of September 1, 2006, by and among the I-Bank, the State, the Master Program Trustee, The Bank of New York, in several capacities thereunder, U.S. Bank National Association, in several capacities thereunder, and Commerce Bank, National Association, as Loan Servicer, and (iii) that certain Second General Amendment to Master Program Trust Agreement, dated as of \_\_\_\_\_, 2022, by and among the I-Bank, the State, the Master Program Trustee and certain Trustees and the Loan Servicer each as defined therein, as the same may be amended and supplemented from time to time in accordance with its terms.

**“Master Program Trustee”** shall mean U.S. Bank Trust National Association (as successor to State Street Bank and Trust Company, N.A.), appointed pursuant to Section 2 of the Master Program Trust Agreement, and its successors as may be appointed pursuant to the provisions thereof.

**“MPTA Account”** means the Account within the Default Rate Debt Service Reserve Fund so designated and established by Article V hereof.

**“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 rebate or to satisfy a yield restriction requirement to the Internal Revenue Service pursuant to any letter of instructions or certificate as to arbitrage.

**“Operating Expense Fund”** means the Fund so designated and established by Article V hereof.

**“Outstanding”** or **“outstanding”** means, when used with reference to Bonds of any Series, as of any particular date (subject to the provisions of Section 13.08), all Bonds of such Series theretofore, or thereupon being, authenticated and delivered by the Trustee pursuant to this Indenture, except (i) Bonds of such Series theretofore or thereupon canceled by the Trustee or surrendered to the Trustee for cancellation; (ii) Bonds of such Series with respect to which all liability of the I-Bank shall have been discharged in

accordance with Article XII; and (iii) Bonds of such Series in lieu of or in substitution for which other Bonds of such Series shall have been authenticated and delivered by the Trustee pursuant to any provision of this Indenture.

**“Paying Agent”** means the Paying Agent appointed pursuant to Section 10.02, and its successors.

**“Payment Default”** means a default with respect to the Series 202[ ] Financing Program WIFIA Bonds pursuant to the provisions of Section 9.09(a) hereof.

**“Principal Account”** means the Account within the Applicable Debt Service Fund so designated and established by Article V.

**“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 13.07, and any further or different addresses as such parties may designate pursuant to Section 13.07.

**“Project Fund”** means each Fund so designated and established by Article V hereof.

**“Project Loan Account”** means any of the Accounts within the Applicable Project Fund so designated and established by Article V.

**“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, but exclusive of the payment of any Default Rate Liability.

**“Rating Agency”** shall mean individually or collectively, as the case may be, the nationally recognized rating agencies, if any, that have published ratings for any Series of Bonds.

**“Rebate Fund”** means the Fund so designated and established by Article V hereof.

**“Record Date”** means, with respect to a particular Series of Bonds, unless otherwise provided by this Indenture or the Supplemental Indenture authorizing such Series of Bonds, February 15 (whether or not such day shall be a Business Day) with respect to the March 1 Interest Payment Date, and August 15 (whether or not such day shall be a Business Day) with respect to the September 1 Interest Payment Date.

**“Redemption Account”** means the Account within the Applicable Debt Service Fund so designated and established pursuant to Article V hereof.

**“Redemption Price”** means, when used with reference to any Bond or any portion thereof, the principal amount of such Bond or such portion thereof and any premium thereon payable upon redemption thereof pursuant to the provisions of such Bond and this Indenture.

**“Refunding Bonds”** means all Bonds authenticated and delivered pursuant to Section 2.04 hereof.

**“Revenues”** means (i) all Loan Repayments and State Loan Repayments that are held by the Trustee, (ii) the WIFIA Master Program Trust Account, and all amounts on deposit therein, to the extent of the Trustee’s rights and entitlements with respect thereto as and to the extent provided by, and in accordance with, the terms of the WIFIA Master Program Trust Agreement, including all payments made to, and received by, the Trustee by the WIFIA Master Program Trustee from such amounts on deposit in the WIFIA Master Program Trust Account in accordance with the terms of the WIFIA Master Program Trust Agreement, (iii) the Master Program Trust Account, and all amounts on deposit therein, to the extent of

the Trustee's rights and entitlements with respect thereto as and to the extent provided by, and in accordance with, the terms of the Master Program Trust Agreement, including all payments made to, and received by, the Trustee by the Master Program Trustee from such amounts on deposit in the Master Program Trust Account in accordance with the terms of the Master Program Trust Agreement, and (iv) all proceeds derived from the foregoing, including, without limitation, investment income received by the I-Bank on such Loan Repayments and State Loan Repayments; provided, however, that Revenues shall not include payments of the Administrative Fee payable to the I-Bank under Section 3.03 of the Loan Agreements nor any State Administrative Fees included as part of any State Loan Repayment, to the extent any such amounts are credited as Administrative Fees or State Administrative Fees pursuant to Section 5.04(2) hereof.

**"Revenue Fund"** means the Fund so designated and established by Article V hereof.

**"Rule 15c2-12"** shall have the meaning ascribed to such term in Section 6.06 hereof.

**"SEC"** shall have the meaning ascribed to such term in Section 6.06 hereof.

**"Series"** means all of the Bonds authenticated and delivered on original issuance and identified pursuant to this Indenture or the Supplemental Indenture authorizing such Bonds as a separate Series of Bonds, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III or Sections 4.07 or 11.10, regardless of variations in maturity, interest rate, Sinking Fund Installments or other provisions.

**"Series 202[ ] Bonds"** means, collectively, the Series 202[ ] Financing Program Bonds and the Series 202[ ] Financing Program WIFIA Bonds.

**"Series 202[ ] Financing Program Bonds"** means the I-Bank's ["Environmental Infrastructure Bonds, Series 202[ ] I-W1 (Green Bonds) (Taxable)"] ["Environmental Infrastructure Bonds, Series 202[ ] A-W1 (Green Bonds)"], which shall be a Series of Bonds hereunder, authorized and issued pursuant to Section 2.03 hereof.

**"Series 202[ ] Financing Program WIFIA Bonds"** means the I-Bank's "Environmental Infrastructure WIFIA Financing Program Bonds, Series 202[ ] C-W1 (Green Bonds) (Taxable)", which shall be a Series of Bonds hereunder, authorized and issued pursuant to Section 2.03A hereof.

**"Sinking Fund Installments"** with respect to any Series of Bonds, shall have the meaning as and to the extent specified, as applicable, in Section 2.03(6) hereof, Section 2.03A(6) hereof or the Applicable Supplemental Indenture.

**"SRF"** with respect to any Fund, Account or Subaccount established pursuant to this Indenture, means that such Fund, Account or Subaccount constitutes part of, and with respect to any Borrower, means a Borrower whose loan will be funded from, either, as applicable and as the case may be, (i) the State Revolving Fund of the State established pursuant to the federal Water Quality Act of 1987, as amended, and (ii) the State Revolving Fund of the State established pursuant to the federal Safe Drinking Water Act, as amended.

**"State"** means the State of New Jersey, including, as applicable, the State acting by and through the Department.

**"State Administrative Fee"** means the administrative fee, if any, as the State may approve from time to time, payable by each Borrower in accordance with the terms of its State Loan Agreement.

**“State Bond Act Funds”** means funds made available to the I-Bank pursuant to (i) the Wastewater Treatment Bond Act of 1985 (P.L. 1985, c.329 and c.333), the Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989, as amended (P.L. 1989, c.181; P.L. 1997, c.225), the Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992 (P.L. 1992, c.88), the Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003 (P.L. 2003, c.162), and/or the Water Supply Bond Act of 1981, as amended (P.L. 1981, c.261; P.L. 1983, c.355; P.L. 1996, c.156), and that have been appropriated to the I-Bank for the purpose of establishing debt service reserve funds and/or providing loan guarantees, subject to and in compliance with the terms and conditions thereof, and (ii) in the future, (A) additional State general obligation bond acts that may be enacted for the purpose of providing additional funds to the I-Bank, subject to appropriation by the State legislature, or (B) other State appropriation acts that may be enacted by the State legislature for the purpose of providing additional funds to the I-Bank, in each case, for debt service reserve funds and/or loan guaranties, subject to and in compliance with the terms and conditions thereof.

**“State Loan Agreement”** means a loan agreement that is entered into by and between the State and a Borrower, pursuant to which a companion zero-interest loan is made by the State to finance, in part, such Borrower’s Project.

**“State Loan Repayment”** means any payment by a Borrower of the principal due and payable pursuant to its State Loan Agreement.

**“Subaccount”** means any subaccount designated and established hereunder.

**“Supplemental Indenture”** means any indenture or indentures of the I-Bank amending, modifying or supplementing this Indenture, authorizing the issuance of a Series of Refunding Bonds, or any other Supplemental Indenture adopted by the I-Bank pursuant to the provisions of this Bond Indenture.

**“Tax Certificate”**, with respect to the Tax-Exempt Bonds, means the “Tax Certificate as to Arbitrage and Instructions as to Compliance with the Provisions of Section 103(a) of the Internal Revenue Code of 1986, as Amended,” executed and delivered by an Authorized Officer of the I-Bank on the date of issuance of the Tax-Exempt Bonds, as the same may be supplemented and amended from time to time.

**“Tax-Exempt Bonds”** means any Bonds issued and Outstanding hereunder[, including the Series 202[ ] Financing Program Bonds,] the interest on which is excluded from gross income of the Holders thereof for federal income tax purposes pursuant to the Code. [There shall be no Tax-Exempt Bonds issued pursuant to the terms of this Indenture, notwithstanding any reference herein to the “Tax-Exempt Bonds” and any such references herein to the “Tax-Exempt Bonds” shall have no effect hereunder.]

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

**“WIFIA Interest Rate”** means, with respect to the Series 202[ ] Financing Program WIFIA Bonds only, an interest rate equal to [●] and [●] hundredths percent ([ ]%) per annum.

**“WIFIA Master Program Trust Account”** means the account and all subaccounts therein created pursuant to Section 3 of the WIFIA Master Program Trust Agreement to be held by the WIFIA Master Program Trustee in trust as additional security for the Holders of the Series 202[ ] Bonds and all other “Coverage Receiving WIFIA Program Bonds” as defined in the WIFIA Master Program Trust Agreement.

**“WIFIA Master Program Trust Agreement”** means that certain WIFIA Master Program Trust Agreement, dated as of \_\_\_\_\_, 2022, by and among the I-Bank, the State, Zions Bancorporation,

National Association d/b/a Zions Bank, as WIFIA Master Program Trustee thereunder, and the Master Program Trustee, as the same may be amended and supplemented from time to time in accordance with its terms.

**“WIFIA Master Program Trustee”** means Zions Bancorporation, National Association d/b/a Zions Bank, appointed pursuant to Section 2 of the WIFIA Master Program Trust Agreement, and its successors as may be appointed pursuant to the provisions thereof.

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

1. “This 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.

2. 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.

3. The terms defined in this Indenture include the plural as well as the singular.

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

5. 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.

**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.

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## **ARTICLE II**

### **AUTHORIZATION AND ISSUANCE OF BONDS**

#### **SECTION 2.01                      Authorization of Bonds; Designation of Bonds of Series.**

1.        This Indenture authorizes Bonds of the I-Bank, as follows.

          (a)        This Indenture authorizes Series 202[ ] Financing Program Bonds in substantially the form attached hereto as Exhibit A-1, to be designated as “Environmental Infrastructure Bonds”, which may be issued from time to time in one or more Series.

          (b)        This Indenture authorizes Series 202[ ] Financing Program WIFIA Bonds in substantially the form attached hereto as Exhibit A-2, to be designated as “Environmental Infrastructure WIFIA Financing Program Bonds”, which may be issued from time to time in one or more Series.

          (c)        The aggregate principal amount of the Bonds that may be executed, authenticated and delivered pursuant to this Indenture is not limited, except as may hereafter be provided in this Indenture or as may be limited by law.

2.        The Bonds may, if and when authorized by the I-Bank pursuant hereto or pursuant to one or more Supplemental Indentures, be issued in one or more Series, and the designation thereof, in addition to the name “Environmental Infrastructure Bonds” or “Environmental Infrastructure WIFIA Financing Program Bonds”, as the case may be, shall include such further appropriate particular designation added to or incorporated in such title for the Bonds of any particular Series as an Authorized Officer of the I-Bank may determine. Each Bond shall bear upon its face the designation so determined for the Series to which it belongs.

3.        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.**

1.        All (but not less than all) of the Bonds of each Series shall be executed by an Authorized Officer of the I-Bank for issuance pursuant to this Indenture and delivered to the Trustee and thereupon shall be authenticated by the Trustee and by it delivered to the I-Bank or upon its order, but only upon the receipt by the Trustee of:

          (a)        A fully executed copy of this Indenture, certified by an Authorized Officer of the I-Bank;

          (b)        In the case of each Series of Refunding Bonds, a copy of the Supplemental Indenture authorizing such Refunding Bonds, certified by an Authorized Officer of the I-Bank, which shall, among other provisions, specify: (i) the authorized principal amount, designation and Series of such Refunding Bonds; (ii) the purposes for which such Series of Refunding Bonds is being issued, which shall be the refunding of Bonds as provided in Section 2.04 hereof; (iii) the date, and the maturity date or dates, of the Refunding Bonds of such Series, provided that each maturity date shall fall upon September 1; (iv) the interest rate or rates of the Refunding Bonds of such Series and the initial Interest Payment Date therefor,

provided that the interest rate shall be identical for all such Refunding Bonds of like maturity; (v) the denominations of, and the manner of dating, numbering and lettering, the Refunding Bonds of such Series; (vi) the Paying Agent or Paying Agents and the place or places of payment of the principal and Redemption Price, if any, of, and interest on, the Refunding Bonds of such Series; (vii) the Redemption Price or Prices, if any, and, subject to Article IV, the redemption terms for the Refunding Bonds of such Series; (viii) the amount and due date of each Sinking Fund Installment, if any, for Refunding Bonds of like maturity of such Series, provided that each Sinking Fund Installment due date shall fall upon a September 1; (ix) the form of the Refunding Bonds of such Series and of the Trustee's certificate of authentication, which shall be substantially in the form attached hereto as Exhibit A-1 for Refunding Bonds issued in connection with the Series 202[ ] Financing Program Bonds and Exhibit A-2 for Refunding Bonds issued in connection with the Series 202[ ] Financing Program WIFIA Bonds, with such variations, insertions or omissions as are appropriate and not inconsistent therewith; and (x) the provisions for the application of proceeds of such Series of Refunding Bonds;

(c) An opinion of Bond Counsel to the effect that (i) the I-Bank has the power pursuant to the Act, as amended to the date of such opinion, to enter into and deliver this Indenture, and this Indenture has been duly and lawfully entered into and delivered by the I-Bank, is in full force and effect and constitutes the valid and binding agreement of the I-Bank enforceable in accordance with its terms, and no other authorization for this Indenture is required; (ii) this Indenture creates the valid pledge that it purports to create of the Trust Estate, subject only to the provisions of this Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in this Indenture; and (iii) the I-Bank is duly authorized and entitled to issue the Bonds of such Series and such Bonds have been duly and validly authorized and issued by the I-Bank, in accordance with law, including the Act, as amended to the date of such opinion, and in accordance with this Indenture, and constitute the valid and binding obligations of the I-Bank as provided in this Indenture, enforceable in accordance with their terms and the terms of this Indenture, and are entitled to the benefits of the Act, as amended to the date of such opinion, and this Indenture. Such opinion may take exception as to the effect of, or for restrictions or limitation or other similar laws affecting, creditors' rights generally and judicial discretion and the valid exercise of the sovereign police powers of the United States of America and may state that no opinion is being rendered as to the availability of any particular remedy, but that such limitations do not make the rights and remedies of the Bondholders, taken as a whole, inadequate for the practical realization of the benefits of the Indenture;

(d) A written order of the I-Bank to the Trustee as to the authentication and delivery of such Bonds, signed by an Authorized Officer of the I-Bank;

(e) A fully executed copy of the WIFIA Master Program Trust Agreement;

(f) A fully executed copy of the Master Program Trust Agreement; and

(g) Such further documents, moneys and securities (including, without limitation, the proceeds of the Bonds of each such Series) as are required by the provisions of Sections 2.03, 2.04 or 6.04 or Article XI hereof or any Supplemental Indenture entered into by the I-Bank pursuant to Article XI hereof.

2. The Bonds of a given Series shall be identical in all respects, except that each maturity of such Series shall differ from each other maturity of such Series as to denominations, interest rate, identifying numbers and letters, and as otherwise established by this Indenture.

3. After the original issuance of Bonds of any Series, no Bonds of such Series shall be issued except in lieu of or in substitution for other Bonds of such Series pursuant to Article III or Sections 4.07 or 11.10 hereof.



## **SECTION 2.03     Series 202[ ] Financing Program Bonds.**

### **[ALTERNATIVE #1:]**

1. A Series of Bonds entitled to the benefit, protection and security of this Indenture is hereby authorized in the aggregate principal amount of \$[ ] for the purpose of funding a portion of the Loans to be made pursuant to the Loan Agreements. Such Series of Bonds shall be designated as, and shall be distinguished from the Bonds of all other Series hereunder by the title, “Environmental Infrastructure Bonds, Series 202[ ] I-W1 (Green Bonds) (Taxable)”. The Series 202[ ] Financing Program Bonds shall be issued by the I-Bank and held by the I-Bank as purchaser and Holder thereof pursuant to the terms of this Indenture.

2. The Series 202[ ] Financing Program Bonds shall be dated and shall bear interest from the date of issuance thereof until the final maturity (stated or otherwise) thereof, except as otherwise provided in Section 3.01 of this Indenture. The Series 202[ ] Financing Program Bonds shall mature on the dates and in the principal amounts, and shall bear interest payable semiannually on March 1 and September 1 in each year, commencing September 1, 20[ ], until final maturity (stated or otherwise) thereof, at the respective rates per annum calculated on the basis of twelve 30-day months, shown below:

<b>Sept. 1</b>	<b>Amount Maturing (\$)</b>	<b>Interest Rate (%)</b>	<b>Sept. 1</b>	<b>Amount Maturing (\$)</b>	<b>Interest Rate (%)</b>
20[ ]	\$[ ]	[ ]%	20[ ]	\$[ ]	[ ]%

3. Individual purchases of the Series 202[ ] Financing Program Bonds may be made in denominations of \$1.00 or any whole multiple thereof. The Series 202[ ] Financing Program Bonds shall be issued initially as one certificate for the entire aggregate principal amount thereof. Unless an Authorized Officer of the I-Bank shall otherwise direct, the Series 202[ ] Financing Program Bonds shall be numbered and lettered “1-R” and, to the extent applicable, upward, with such other letter and/or number, as may be determined by an Authorized Officer of the I-Bank, prefixed to the number. Subject to the provisions of this Indenture, the form of the Series 202[ ] Financing Program Bonds and the Trustee’s certificate of authentication shall be substantially in the form set forth in Exhibit A-1.

4. The principal or Redemption Price of the Series 202[ ] Financing Program Bonds shall be payable to the Holders thereof upon presentation and surrender thereof at the Principal Office of [ ], as Trustee, or its successors and assigns. Alternatively, the principal or Redemption Price of the Series 202[ ] Financing Program Bonds shall be payable to the Holders thereof at any alternative location that may be established for such payment as a result of the future appointment of a substitute Trustee or Trustees as permitted by this Indenture. Interest on the Series 202[ ] Financing Program Bonds shall be payable by check or draft of the Trustee, mailed or transmitted, respectively, to the Holders thereof as the same appear as of the Record Date on the books of the I-Bank maintained by the Trustee. Notwithstanding the preceding provisions of this subparagraph 4, so long as the Series 202[ ] Financing Program Bonds are held in book-entry-only form pursuant to Section 2.05 hereof, the provisions of Section 2.05 shall govern the payment of principal or Redemption Price, if any, of, and interest on, the Series 202[ ] Financing Program Bonds.

5. The Series 202[ ] Financing Program Bonds shall be subject to redemption prior to their respective stated maturity dates at the option of the I-Bank, upon the terms set forth in this subsection and upon the additional terms and the giving of notice as provided in Article IV hereof, either in whole or in

part, and if in part by lot within any maturity or maturities determined by the I-Bank, on any date, upon the payment of 100% of the principal amount thereof and accrued interest thereon to the date fixed for redemption.

6. [None of the Series 202[ ] Financing Program Bonds are subject to mandatory sinking fund redemption prior to their respective stated maturities.] [The Series 202[ ] Financing Program Bonds due [September 1, 20[ ] and September 1, 20[ ]] are subject to mandatory sinking fund redemption prior to their respective stated maturities, upon the surrender thereof and through selection by lot by the Trustee and upon the giving of notice as provided in Article IV hereof, by payment of the following “Sinking Fund Installments”, on September 1, in each year set forth below, at a Redemption Price that is equal to 100% of the principal amount thereof plus interest accrued to the redemption date, in the following aggregate principal amounts in the following years:

<u>Year</u>	<u>Principal Amount</u>
20[ ]	\$[ ]
20[ ]*	[ ]

<u>Year</u>	<u>Principal Amount</u>
20[ ]	\$[ ]
20[ ]*	[ ]

\* Final maturity]

7. The proceeds of the Series 202[ ] Financing Program Bonds consisting of \$[ ] (the par amount of the Series 202[ ] Financing Program Bonds) shall be received by the Trustee and applied simultaneously with the delivery of such Series 202[ ] Financing Program Bonds as follows:

(a) [There shall be deposited (i) in the SRF Subaccount of the Capitalized Interest Account in the Series 202[ ] Financing Program Bonds Debt Service Fund \$0.00, and (ii) in the non-SRF Subaccount of the Capitalized Interest Account in the Series 202[ ] Financing Program Bonds Debt Service Fund \$0.00. No Borrowers are capitalizing interest; therefore, there shall be no deposit to the Capitalized Interest Account in the Series 202[ ] Financing Program Debt Service Fund.]

(b) There shall be deposited in the Costs of Issuance Account in the Operating Expense Fund an amount equal to \$[ ], of which \$[ ] shall be transferred by the Trustee immediately via wire transfer to the account of the I-Bank, in accordance with the wire instructions provided by the I-Bank to the Trustee, for application by the I-Bank to the payment of certain Costs of Issuance incurred in connection with the issuance of the Series 202[ ] Financing Program Bonds; \$0.00 shall be deposited in the Administrative Fee Account of the Operating Expense Fund;

(c) There shall be deposited in the Series 202[ ] Financing Program Bonds Rebate Fund an amount equal to \$0.00, which shall be deposited in the General Rebate Account;

(d) Reserved;

(e) There shall be deposited in the Series 202[ ] Financing Program Bonds General Fund \$[ ], (i) \$[ ] of which shall be transferred to the SRF Account within the Series 202[ ] Financing Program Bonds General Fund, \$[ ] of which shall be deposited in the Clean Water SRF Subaccount and \$[ ] of which shall be deposited in the Drinking Water SRF Subaccount; and (ii) \$[ ] of which shall be transferred to the non-SRF Account within the Series 202[ ] Financing Program Bonds General Fund, \$[ ]

of which shall be deposited in the Clean Water non-SRF Subaccount and \$[ ] of which shall be deposited in the Drinking Water non-SRF Subaccount;

(f) The remaining balance of the proceeds of the Series 202[ ] Financing Program Bonds, in the amount of \$[ ], shall be deposited in the Series 202[ ] Financing Program Bonds Project Fund on behalf of each Borrower, such aggregate amount to be allocated among each of the Borrowers in each of the individual respective amounts and via each of the individual respective Project Loan Accounts as is indicated below, which individual Project Loan Accounts are aggregated and designated, as appropriate, as (i) the Clean Water SRF Project Loan Accounts, (ii) the Drinking Water SRF Project Loan Accounts, (iii) the Clean Water non-SRF Project Loan Accounts and (iv) the Drinking Water non-SRF Project Loan Accounts. Within the Series 202[ ] Financing Program Bonds Project Fund, an aggregate of \$[ ] shall be allocated to the Clean Water SRF Project Loan Accounts; an aggregate of \$[ ] shall be allocated to the Drinking Water SRF Project Loan Accounts; an aggregate of \$[ ] shall be allocated to the Clean Water non-SRF Project Loan Accounts; and an aggregate of \$[ ] shall be allocated to the Drinking Water non-SRF Project Loan Accounts.

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**SERIES 202[ ] FINANCING PROGRAM BONDS PROJECT FUND:**

**Clean Water SRF Project Loan Accounts:**

[NAME] ([PROJECT NO.]) \$[ ]

[NAME] ([PROJECT NO.]) \$[ ]

**Total:** \$[ ]

**Drinking Water SRF Project Loan Accounts:**

[NAME] ([PROJECT NO.]) \$[ ]

[NAME] ([PROJECT NO.]) \$[ ]

**Total:** \$[ ]

**SRF Project Loan Accounts Total:**

**Clean Water SRF Project Loan Accounts:** \$[ ]

**Drinking Water SRF Project Loan Accounts:** \$[ ]

**SRF Account Total:** \$[ ]

**Clean Water Non-SRF Project Loan Accounts:**

[NAME] ([PROJECT NO.]) \$[ ]

[NAME] ([PROJECT NO.]) \$[ ]

**Total:** \$[ ]

**Drinking Water Non-SRF Project Loan Accounts:**

[NAME] ([PROJECT NO.]) \$[ ]

[NAME] ([PROJECT NO.]) \$[ ]

**Total:** \$[ ]

**Non-SRF Project Loan Accounts Total:**

**Clean Water Non-SRF Project Loan Accounts:** \$[ ]

**Drinking Water Non-SRF Project Loan Accounts:** [ ]

**Non-SRF Account Total:** \$[ ]

(g) Promptly following the delivery to the Trustee of the proceeds of the Series 202[ ] Financing Program Bonds and the deposit thereof by the Trustee as instructed pursuant to the provisions of Section 2.03(7)(a) through (f) hereof, the Chairperson, the Executive Director or another Authorized Officer of the I-Bank shall provide to the Trustee a Certificate that shall set forth directions to the Trustee as to the initial disbursement of certain of the proceeds of the Series 202[ ] Financing Program Bonds from the various Funds, Accounts and Subaccounts into which such proceeds have been deposited pursuant to the provisions of Section 2.03(7)(a) through (f) hereof.

8. Reserved.

9. Concurrently with the authentication and delivery of the Series 202[ ] Financing Program Bonds, the I-Bank shall furnish to the Trustee:

(a) reserved;

(b) an opinion of Bond Counsel to the effect that under existing law interest on the Series 202[ ] Financing Program Bonds and any gain on the sale thereof are excluded from gross income under the New Jersey Gross Income Tax Act; and

(c) an opinion of Counsel to the effect that the I-Bank has the right and power under the Act, as amended to the date of such opinion, to enter into the Loan Agreements, and the Loan Agreements have been duly and lawfully authorized and executed by the I-Bank, are in full force and effect and are valid and binding upon the I-Bank and enforceable in accordance with their terms, and no other authorization for the Loan Agreements is required; provided, that the opinion 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 affecting creditors' rights generally and judicial discretion and the valid exercise of the sovereign police powers of the State of New Jersey and of the constitutional powers of the United States of America and may state that no opinion is being rendered as to the availability of any particular remedy, but that such limitations do not make the rights and remedies of the Bondholders, taken as a whole, inadequate for the practical realization of the benefits of the Loan Agreements.

**[ALTERNATIVE #2:]**

1. A Series of Bonds entitled to the benefit, protection and security of this Indenture is hereby authorized in the aggregate principal amount of \$[ ] for the purpose of funding a portion of the Loans to be made pursuant to the Loan Agreements. Such Series of Bonds shall be designated as, and shall be distinguished from the Bonds of all other Series hereunder by the title, "Environmental Infrastructure Bonds, Series 202[ ]A-W1 (Green Bonds)".

2. The Series 202[ ] Financing Program Bonds shall be dated and shall bear interest from the date of issuance thereof until the final maturity (stated or otherwise) thereof, except as otherwise provided in Section 3.01 of this Indenture. The Series 202[ ] Financing Program Bonds shall mature on the dates and in the principal amounts, and shall bear interest payable semiannually on March 1 and September 1 in each year, commencing September 1, 20[ ], until final maturity (stated or otherwise) thereof, at the respective rates per annum calculated on the basis of twelve 30-day months, shown below:

<b>Sept. 1</b>	<b>Amount</b> <b>Maturing (\$)</b>	<b>Interest</b> <b>Rate (%)</b>	<b>Sept. 1</b>	<b>Amount</b> <b>Maturing (\$)</b>	<b>Interest</b> <b>Rate (%)</b>
20[ ]	\$[ ]	[ ]%	20[ ]	\$[ ]	[ ]%

3. Individual purchases of the Series 202[ ] Financing Program Bonds may be made in denominations of \$5,000 or any whole multiples of \$5,000. The Series 202[ ] Financing Program Bonds shall be initially issued in one certificate for each aggregate principal amount of the stated maturity thereof. Unless an Authorized Officer of the I-Bank shall otherwise direct, the Series 202[ ] Financing Program Bonds shall be lettered and numbered from one upward in order of maturities preceded by the letter “R” and such other letter and/or number, as determined by an Authorized Officer of the I-Bank, prefixed to the number. Subject to the provisions of this Indenture, the form of the Series 202[ ] Financing Program Bonds and the Trustee’s certificate of authentication shall be substantially in the form set forth in Exhibit A-1.

4. The principal or Redemption Price of the Series 202[ ] Financing Program Bonds shall be payable to the Holders thereof upon presentation and surrender thereof at the Principal Office of [ ], as Trustee, or its successors and assigns. Alternatively, the principal or Redemption Price of the Series 202[ ] Financing Program Bonds shall be payable to the Holders thereof at any alternative location that may be established for such payment as a result of the future appointment of a substitute Trustee or Trustees as permitted by this Indenture. Interest on the Series 202[ ] Financing Program Bonds shall be payable by check or draft of the Trustee, mailed or transmitted, respectively, to the Holders thereof as the same appear as of the Record Date on the books of the I-Bank maintained by the Trustee. Notwithstanding the preceding provisions of this subparagraph 4, so long as the Series 202[ ] Financing Program Bonds are held in book-entry-only form pursuant to Section 2.05 hereof, the provisions of Section 2.05 shall govern the payment of principal or Redemption Price, if any, of, and interest on, the Series 202[ ] Financing Program Bonds.

5. The Series 202[ ] Financing Program Bonds maturing on or before September 1, 20[ ] shall not be subject to redemption prior to their respective stated maturity dates. The Series 202[ ] Financing Program Bonds maturing on or after September 1, 20[ ] shall be subject to redemption prior to their respective stated maturity dates, on or after September 1, 20[ ], at the option of the I-Bank, upon the terms set forth in this subsection and upon the additional terms and the giving of notice as provided in Article IV hereof, either in whole or in part, and if in part by lot within any maturity or maturities determined by the I-Bank, on any date, upon the payment of 100% of the principal amount thereof and accrued interest thereon to the date fixed for redemption.

6. [None of the Series 202[ ] Financing Program Bonds are subject to mandatory sinking fund redemption prior to their respective stated maturities.] [The Series 202[ ] Financing Program Bonds due [September 1, 20[ ] and September 1, 20[ ]] are subject to mandatory sinking fund redemption prior to their respective stated maturities, upon the surrender thereof and through selection by lot by the Trustee and upon the giving of notice as provided in Article IV hereof, by payment of the following “Sinking Fund Installments”, on September 1, in each year set forth below, at a Redemption Price that is equal to 100% of the principal amount thereof plus interest accrued to the redemption date, in the following aggregate principal amounts in the following years:

<u>Year</u>	<u>Principal Amount</u>
20[ ]	\$[ ]
20[ ]*	[ ]

<u>Year</u>	<u>Principal Amount</u>
20[ ]	\$[ ]
20[ ]*	[ ]

\* Final maturity]

7. The proceeds of the Series 202[ ] Financing Program Bonds consisting of \$[ ] (par amount of the Series 202[ ] Financing Program Bonds of \$[ ] (which includes the good faith deposit of the successful bidder for the Series 202[ ] Financing Program Bonds in the amount of \$[ ]), plus net original issue premium of \$[ ], less underwriter's discount of \$[ ]) shall be received by the Trustee and applied simultaneously with the delivery of such Series 202[ ] Financing Program Bonds as follows:

(a) [There shall be deposited (i) in the SRF Subaccount of the Capitalized Interest Account in the Series 202[ ] Financing Program Bonds Debt Service Fund \$0.00, and (ii) in the non-SRF Subaccount of the Capitalized Interest Account in the Series 202[ ] Financing Program Bonds Debt Service Fund \$0.00. No Borrowers are capitalizing interest; therefore, there shall be no deposit to the Capitalized Interest Account in the Series 202[ ] Financing Program Debt Service Fund.]

(b) There shall be deposited in the Costs of Issuance Account in the Operating Expense Fund an amount equal to \$[ ], of which \$[ ] shall be transferred by the Trustee immediately via wire transfer to the account of the I-Bank, in accordance with the wire instructions provided by the I-Bank to the Trustee, for application by the I-Bank to the payment of certain Costs of Issuance incurred in connection with the issuance of the Series 202[ ] Financing Program Bonds; \$0.00 shall be deposited in the Administrative Fee Account of the Operating Expense Fund;

(c) There shall be deposited in the Series 202[ ] Financing Program Bonds Rebate Fund an amount equal to \$0.00, which shall be deposited in the General Rebate Account;

(d) Reserved;

(e) There shall be deposited in the Series 202[ ] Financing Program Bonds General Fund \$[ ], (i) \$[ ] of which shall be transferred to the SRF Account within the Series 202[ ] Financing Program Bonds General Fund, \$[ ] of which shall be deposited in the Clean Water SRF Subaccount and \$[ ] of which shall be deposited in the Drinking Water SRF Subaccount; and (ii) \$[ ] of which shall be transferred to the non-SRF Account within the Series 202[ ] Financing Program Bonds General Fund, \$[ ] of which shall be deposited in the Clean Water non-SRF Subaccount and \$[ ] of which shall be deposited in the Drinking Water non-SRF Subaccount;

(f) The remaining balance of the proceeds of the Series 202[ ] Financing Program Bonds, in the amount of \$[ ], shall be deposited in the Series 202[ ] Financing Program Bonds Project Fund on behalf of each Borrower, such aggregate amount to be allocated among each of the Borrowers in each of the individual respective amounts and via each of the individual respective Project Loan Accounts as is indicated below, which individual Project Loan Accounts are aggregated and designated, as appropriate, as (i) the Clean Water SRF Project Loan Accounts, (ii) the Drinking Water SRF Project Loan Accounts, (iii) the Clean Water non-SRF Project Loan Accounts and (iv) the Drinking Water non-SRF Project Loan Accounts. Within the Series 202[ ] Financing Program Bonds Project Fund, an aggregate of \$[ ] shall be allocated to the Clean Water SRF Project Loan Accounts; an aggregate of \$[ ] shall be allocated to the Drinking Water SRF Project Loan Accounts; an aggregate of \$[ ] shall be allocated to the Clean Water non-SRF Project Loan Accounts; and an aggregate of \$[ ] shall be allocated to the Drinking Water non-SRF Project Loan Accounts.

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**SERIES 202[ ] FINANCING PROGRAM BONDS PROJECT FUND:**

**Clean Water SRF Project Loan Accounts:**

[NAME] ([PROJECT NO.])	\$[ ]
[NAME] ([PROJECT NO.])	\$[ ]

<b>Total:</b>	\$[ ]
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**Drinking Water SRF Project Loan Accounts:**

[NAME] ([PROJECT NO.])	\$[ ]
[NAME] ([PROJECT NO.])	\$[ ]

<b>Total:</b>	\$[ ]
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**SRF Project Loan Accounts Total:**

<b>Clean Water SRF Project Loan Accounts:</b>	\$[ ]
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<b>Drinking Water SRF Project Loan Accounts:</b>	\$[ ]
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<b>SRF Account Total:</b>	\$[ ]
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**Clean Water Non-SRF Project Loan Accounts:**

[NAME] ([PROJECT NO.])	\$[ ]
[NAME] ([PROJECT NO.])	\$[ ]

<b>Total:</b>	\$[ ]
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**Drinking Water Non-SRF Project Loan Accounts:**

[NAME] ([PROJECT NO.])	\$[ ]
[NAME] ([PROJECT NO.])	\$[ ]

<b>Total:</b>	\$[ ]
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**Non-SRF Project Loan Accounts Total:**

<b>Clean Water Non-SRF Project Loan Accounts:</b>	\$[ ]
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<b>Drinking Water Non-SRF Project Loan Accounts:</b>	[ ]
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<b>Non-SRF Account Total:</b>	\$[ ]
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(g) Promptly following the delivery to the Trustee of the proceeds of the Series 202[ ] Financing Program Bonds and the deposit thereof by the Trustee as instructed pursuant to the provisions of Section 2.03(7)(a) through (f) hereof, the Chairperson, the Executive Director or another Authorized Officer of the I-Bank shall provide to the Trustee a Certificate that shall set forth directions to the Trustee as to the initial disbursement of certain of the proceeds of the Series 202[ ] Financing Program Bonds from the various Funds, Accounts and Subaccounts into which such proceeds have been deposited pursuant to the provisions of Section 2.03(7)(a) through (f) hereof.

8. Reserved.



9. Concurrently with the authentication and delivery of the Series 202[ ] Financing Program Bonds, the I-Bank shall furnish to the Trustee:

(a) a Certificate of the Chairperson, the Executive Director or another Authorized Officer of the I-Bank, pursuant to Section 148 of the Code, setting forth the expectations of the I-Bank on the date of such authentication and delivery as to future events, and such Certificate shall set forth the facts and estimates on which such expectations are based and shall state that, to the best of the knowledge and belief of such officer of the I-Bank, the I-Bank's expectations are reasonable;

(b) an opinion of Bond Counsel to the effect that under existing law (i) interest on the Series 202[ ] Financing Program Bonds is excluded from gross income for federal income tax purposes, and (ii) interest on the Series 202[ ] Financing Program Bonds and any gain on the sale thereof are excluded from gross income under the New Jersey Gross Income Tax Act; and

(c) an opinion of Counsel to the effect that the I-Bank has the right and power under the Act, as amended to the date of such opinion, to enter into the Loan Agreements, and the Loan Agreements have been duly and lawfully authorized and executed by the I-Bank, are in full force and effect and are valid and binding upon the I-Bank and enforceable in accordance with their terms, and no other authorization for the Loan Agreements is required; provided, that the opinion 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 affecting creditors' rights generally and judicial discretion and the valid exercise of the sovereign police powers of the State of New Jersey and of the constitutional powers of the United States of America and may state that no opinion is being rendered as to the availability of any particular remedy, but that such limitations do not make the rights and remedies of the Bondholders, taken as a whole, inadequate for the practical realization of the benefits of the Loan Agreements.

#### **SECTION 2.03A. Series 202[ ] Financing Program WIFIA Bonds.**

1. A Series of Bonds entitled to the benefit, protection and security of this Indenture is hereby authorized in the stated aggregate principal amount of \$[ ] for the purpose of funding a portion of the Loans to be made pursuant to the Loan Agreements. Such Series of Bonds shall be designated as, and shall be distinguished from the Bonds of all other Series hereunder by the title, "Environmental Infrastructure WIFIA Financing Program Bonds, Series 202[ ]C-W1 (Green Bonds) (Taxable)". The Series 202[ ] Financing Program WIFIA Bonds shall be issued by the I-Bank and initially held by the USEPA as the purchaser and Holder thereof pursuant to the terms of this Indenture.

2. The Series 202[ ] Financing Program WIFIA Bonds shall be dated and shall bear interest from the date of issuance thereof until final maturity (stated or otherwise) thereof at the WIFIA Interest Rate. In addition, the Series 202[ ] Financing Program WIFIA Bonds shall be subject to the Default Rate Liability as and when provided pursuant to the terms hereof and the WIFIA Loan Agreement, which Default Rate Liability shall accrue as an additional default interest liability with respect to the Series 202[ ] Financing Program WIFIA Bonds upon the occurrence of either a Payment Default or a Development Default. The Default Rate Liability shall accrue commencing on the date of the occurrence of a Payment Default or a Development Default, which (i) may be evidenced by written notice from the USEPA or a Federal Agency, as the case may be, to the I-Bank and the Trustee, (ii) shall accrue from the date of the occurrence of such Payment Default or Development Default, as applicable, (iii) shall be payable commencing on the first Interest Payment Date thereafter, and (iv) shall be calculated with respect to the Outstanding principal amount of the Series 202[ ] Financing Program WIFIA Bonds plus any previously accrued interest thereon that is past due. The Default Rate Liability shall cease to accrue as of the date upon which a cure of the Payment Default or the Development Default, as applicable, has been achieved. The

cure of any Development Default shall be evidenced by a Certificate of an Authorized Officer of the I-Bank, countersigned by the USEPA or a Federal Agency, as the case may be, and provided to the Trustee; such Certificate of an Authorized Officer of the I-Bank, as countersigned, shall indicate the date upon which such cure was achieved and, therefore, shall become effective, which cure date may be prior to the dated date of such Certificate. The Default Rate Liability, accruing and payable as and when provided pursuant to the terms hereof with respect to the Series 202[ ] Financing Program WIFIA Bonds, shall apply only to the extent that, and as long as, such Bonds are held by the USEPA or a Federal Agency.

Interest accruing at the WIFIA Interest Rate and, as and to the extent applicable pursuant to the terms hereof, the Default Rate Liability, accruing in the manner set forth in the preceding paragraph, shall be payable semiannually on March 1 and September 1 in each year, commencing on \_\_\_\_\_, until the final maturity (stated or otherwise) of the Series 202[ ] Financing Program WIFIA Bonds, and shall be calculated on the basis of twelve 30-day months.

The Default Rate Liability, as and to the extent applicable pursuant to the terms hereof, shall be paid solely and exclusively from funds available for such purpose on deposit in the Default Rate Debt Service Reserve Fund.

The Series 202[ ] Financing Program WIFIA Bonds shall mature on September 1 in the years and in the amounts as set forth below:

<b>Sept. 1</b>	<b>Amount Maturing (\$)</b>	<b>Sept. 1</b>	<b>Amount Maturing (\$)</b>
20[ ]	\$[ ]	20[ ]	\$[ ]

The Series 202[ ] Financing Program WIFIA Bonds shall evidence and secure that portion of the Outstanding WIFIA Loan Balance (as such term is defined in the WIFIA Loan Agreement) corresponding to the disbursement under the WIFIA Loan Agreement associated with the Series 202[ ] Financing Program WIFIA Bonds and such portion of the Outstanding WIFIA Loan Balance shall equal, at any given time, the Outstanding principal amount of the Series 202[ ] Financing Program WIFIA Bonds.

3. Individual purchases of the Series 202[ ] Financing Program WIFIA Bonds shall be made in denominations of \$1.00 or any whole multiple thereof. The Series 202[ ] Financing Program WIFIA Bonds shall be issued initially as one certificate for the entire aggregate principal amount thereof. Unless an Authorized Officer of the I-Bank shall otherwise direct, the Series 202[ ] Financing Program WIFIA Bonds shall be numbered and lettered "1-R" and, to the extent applicable, upward, with such other letter and/or number, as may be determined by an Authorized Officer of the I-Bank, prefixed to the number. Subject to the provisions of this Indenture, the form of the Series 202[ ] Financing Program WIFIA Bonds and the Trustee's certificate of authentication shall be substantially in the form set forth in Exhibit A-2.

4. During any period in which the Series 202[ ] Financing Program WIFIA Bonds are held by the USEPA or a Federal Agency, the principal or Redemption Price thereof shall be payable to USEPA or such Federal Agency, as the Holder thereof, in accordance with the payment procedures set forth in Schedule II hereto. At any time when neither the USEPA nor a Federal Agency is the Holder of the Series 202[ ] Financing Program WIFIA Bonds, the principal or Redemption Price thereof shall be payable to the Holders of the Series 202[ ] Financing Program WIFIA Bonds upon presentation and surrender thereof (i) at the Principal Office of Zions Bancorporation, National Association d/b/a Zions Bank, as Trustee, or its successors and assigns, or (ii) at any alternative location that may be established for such payment as a result of the future appointment of a substitute Trustee or Trustees as permitted by this Indenture. Interest on the Series 202[ ] Financing Program WIFIA Bonds held by the USEPA or a Federal Agency shall be payable in accordance with the payment procedures set forth in Schedule II hereto; provided, however, that if neither USEPA nor a Federal Agency is the Holder of the Series 202[ ] Financing Program WIFIA Bonds, the interest thereon shall be payable by check or draft of the Trustee, mailed or transmitted, respectively, to the Holders thereof as the same appear as of the Record Date on the books of the I-Bank maintained by the Trustee. To the extent that, subsequent to the issuance of the Series 202[ ] Financing Program WIFIA Bonds, such Bonds are held in book-entry-only form pursuant to the provisions of Section 2.06 and Section 2.05 hereof relating to book-entry registration (regardless of the identity of such Holders), the provisions of Section 2.05, relating to book-entry registration, shall govern the payment of principal or Redemption Price, if any, of, and interest on, the Series 202[ ] Financing Program WIFIA Bonds. The payment procedures, as set forth in Schedule II hereto, with respect to the Series 202[ ] Financing Program WIFIA Bonds as and when held by the USEPA or a Federal Agency may be updated and revised from time to time by the USEPA or a Federal Agency, as the Holder thereof, by means of the submission thereby to the I-Bank of a written instruction that shall identify the updated and revised procedures, which updated and revised procedures shall become effective upon the next occurring Interest Payment Date, provided that such written instructions are received no less than ten (10) Business Days prior to such Interest Payment Date. Promptly upon the receipt thereof, the I-Bank shall provide such updated and revised procedures to the Trustee.

5. The Series 202[ ] Financing Program WIFIA Bonds shall be subject to optional redemption prior to their respective stated maturity dates, on or after September 1, 20[ ] (which date is subsequent to the sixth (6<sup>th</sup>) anniversary of the Effective Date, as such term is defined in the WIFIA Loan Agreement), at the option of the I-Bank, upon the terms set forth in this subsection and upon notice as provided in Article IV hereof, either in whole or in part, and if in part in principal amounts as shall be determined by the I-Bank, provided, however, that any such optional redemption shall be in a principal amount of no less than \$1,000,000 (unless the prior written consent of the Holder is granted) or any integral multiple of \$1.00 in excess thereof, which optional redemption (i) may be implemented on any date, provided, however, that the I-Bank shall not elect to implement more than one such optional redemption during any given Bond Year (unless the prior written consent of the Holder is granted), and (ii) shall be implemented by payment of 100% of the principal amount thereof and accrued interest thereon to the date fixed for redemption. Any such partial optional redemptions of the Series 202[ ] Financing Program WIFIA Bonds shall be applied to reduce future payments due on the maturities of such Bonds then outstanding in inverse order of maturity, and accrued interest thereon to the date fixed for redemption, as directed via a Certificate of an Authorized Officer of the I-Bank delivered to the Trustee at or prior to such partial redemption. In addition, without application of any of the limitations as to optional redemption as set forth in the preceding provisions of this subsection (5), the Series 202[ ] Financing Program WIFIA Bonds shall be subject to mandatory redemption prior to their respective stated maturity dates when any prepayment is made by a Borrower with respect to its I-Bank Loan. Any such partial mandatory redemption of the Series 202[ ] Financing Program WIFIA Bonds pursuant to these provisions of this subsection (5) shall be applied to reduce future maturities of the Series 202[ ] Financing Program WIFIA Bonds then outstanding in inverse order of maturity, as directed via a Certificate of an Authorized Officer of the I-Bank delivered to the Trustee at or prior to such partial mandatory redemption; provided, however, that if on any

given maturity date on which a Borrower prepayment is applied to a given maturity of the Series 202[ ] Financing Program WIFIA Bonds, pursuant to these mandatory redemption provisions, there also remains outstanding Series 202[ ] Financing Program Bonds maturing on such date, such Borrower prepayment shall be allocated as between each such Series of Bonds maturing on such maturity date as provided in Section 4.02(2) hereof and as memorialized in the above-referenced Certificate of an Authorized Officer of the I-Bank.

6. None of the Series 202[ ] Financing Program WIFIA Bonds are subject to mandatory sinking fund redemption prior to their respective stated maturities.

7. The proceeds of the Series 202[ ] Financing Program WIFIA Bonds consisting of \$[ ] (the par amount of the Series 202[ ] Financing Program WIFIA Bonds) shall be received by the Trustee and applied simultaneously with the delivery of such Series 202[ ] Financing Program WIFIA Bonds as follows:

(a) Reserved.

(b) There shall be deposited in the Costs of Issuance Account in the Operating Expense Fund an amount equal to \$[ ], of which \$[ ] shall be transferred by the Trustee immediately via wire transfer to the account of the I-Bank, in accordance with the wire instructions provided by the I-Bank to the Trustee, for application by the I-Bank to the payment of certain Costs of Issuance incurred in connection with the issuance of the Series 202[ ] Financing Program WIFIA Bonds; \$0.00 shall be deposited in the Administrative Fee Account of the Operating Expense Fund;

(c) Reserved;

(d) Reserved;

(e) There shall be deposited in the Series 202[ ] Financing Program WIFIA Bonds General Fund \$[ ], (i) \$[ ] of which shall be transferred to the SRF Account within the Series 202[ ] Financing Program WIFIA Bonds General Fund, \$[ ] of which shall be deposited in the Clean Water SRF Subaccount and \$[ ] of which shall be deposited in the Drinking Water SRF Subaccount; and (ii) \$[ ] of which shall be transferred to the non-SRF Account within the Series 202[ ] Financing Program WIFIA Bonds General Fund, \$[ ] of which shall be deposited in the Clean Water non-SRF Subaccount and \$[ ] of which shall be deposited in the Drinking Water non-SRF Subaccount;

(f) The remaining balance of the proceeds of the Series 202[ ] Financing Program WIFIA Bonds, in the amount of \$[ ], shall be deposited in the Series 202[ ] Financing Program WIFIA Bonds Project Fund on behalf of each Borrower, such aggregate amount to be allocated among each of the Borrowers in each of the individual respective amounts and via each of the individual respective Project Loan Accounts as is indicated below, which individual Project Loan Accounts are aggregated and designated, as appropriate, as (i) the Clean Water SRF Project Loan Accounts, (ii) the Drinking Water SRF Project Loan Accounts, (iii) the Clean Water non-SRF Project Loan Accounts and (iv) the Drinking Water non-SRF Project Loan Accounts. Within the Series 202[ ] Financing Program WIFIA Bonds Project Fund, an aggregate of \$[ ] shall be allocated to the Clean Water SRF Project Loan Accounts; an aggregate of \$[ ] shall be allocated to the Drinking Water SRF Project Loan Accounts; an aggregate of \$[ ] shall be allocated to the Clean Water non-SRF Project Loan Accounts; and an aggregate of \$[ ] shall be allocated to the Drinking Water non-SRF Project Loan Accounts.

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**SERIES 202[ ] FINANCING PROGRAM WIFIA BONDS PROJECT FUND:**

**Clean Water SRF Project Loan Accounts:**

[NAME] ([PROJECT NO.]) \$[ ]

[NAME] ([PROJECT NO.]) \$[ ]

**Total:** \$[ ]

**Drinking Water SRF Project Loan Accounts:**

[NAME] ([PROJECT NO.]) \$[ ]

[NAME] ([PROJECT NO.]) \$[ ]

**Total:** \$[ ]

**SRF Project Loan Accounts Total:**

**Clean Water SRF Project Loan Accounts:** \$[ ]

**Drinking Water SRF Project Loan Accounts:** \$[ ]

**SRF Account Total:** \$[ ]

**Clean Water Non-SRF Project Loan Accounts:**

[NAME] ([PROJECT NO.]) \$[ ]

[NAME] ([PROJECT NO.]) \$[ ]

**Total:** \$[ ]

**Drinking Water Non-SRF Project Loan Accounts:**

[NAME] ([PROJECT NO.]) \$[ ]

[NAME] ([PROJECT NO.]) \$[ ]

**Total:** \$[ ]

**Non-SRF Project Loan Accounts Total:**

**Clean Water Non-SRF Project Loan Accounts:** \$[ ]

**Drinking Water Non-SRF Project Loan Accounts:** \$[ ]

**Non-SRF Account Total:** \$[ ]

(g) Promptly following the delivery to the Trustee of the proceeds of the Series 202[ ] Financing Program WIFIA Bonds and the deposit thereof by the Trustee as instructed pursuant to the provisions of Section 2.03A(7)(a) through (f) hereof, the Chairperson, the Executive Director or another Authorized Officer of the I-Bank shall provide to the Trustee a Certificate that shall set forth directions to the Trustee as to the initial disbursement of certain of the proceeds of the Series 202[ ] Financing Program WIFIA Bonds from the various Funds, Accounts and Subaccounts into which such proceeds have been deposited pursuant to the provisions of Section 2.03A(7)(a) through (f) hereof.

8. Reserved.

9. Concurrently with the authentication and delivery of the Series 202[ ] Financing Program WIFIA Bonds, the I-Bank shall furnish to the Trustee:

(a) Reserved;

(b) an opinion of Bond Counsel to the effect that, under existing law, interest on the Series 202[ ] Financing Program WIFIA Bonds and any gain on the sale thereof are excluded from gross income under the New Jersey Gross Income Tax Act; and

(c) an opinion of Counsel to the effect that the I-Bank has the right and power under the Act, as amended to the date of such opinion, to enter into the Loan Agreements, and the Loan Agreements have been duly and lawfully authorized and executed by the I-Bank, are in full force and effect and are valid and binding upon the I-Bank and enforceable in accordance with their terms, and no other authorization for the Loan Agreements is required; provided, that the opinion 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 affecting creditors' rights generally and judicial discretion and the valid exercise of the sovereign police powers of the State of New Jersey and of the constitutional powers of the United States of America and may state that no opinion is being rendered as to the availability of any particular remedy, but that such limitations do not make the rights and remedies of the Bondholders, taken as a whole, inadequate for the practical realization of the benefits of the Loan Agreements.

#### **SECTION 2.04 Refunding Bonds.**

1. One or more Series of Refunding Bonds may be issued at any time to refund any Outstanding Bond or Bonds of a particular Series or all of the Bonds of one or more Series. 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 pursuant to this Indenture required by the provisions of the Supplemental Indenture authorizing such Bonds. Refunding Bonds shall be on a parity with and shall be entitled to the same benefit and security of this Indenture, including, without limitation, the pledge of the Trust Estate as the Bonds of the Series of Bonds which are being refunded.

2. Refunding Bonds of each Series shall be authenticated and delivered by the Trustee only upon receipt by the Trustee (in addition to the documents required by Section 2.02) of:

(a) Instructions from the I-Bank to the Trustee, satisfactory to it, to give due notice of redemption, if applicable, of all the Bonds to be refunded on a redemption date or dates specified in such instructions, subject to the provisions of Section 12.01;

(b) If the Bonds to be refunded are not by their terms subject to redemption within the next succeeding sixty (60) days, instructions from the I-Bank to the Trustee, satisfactory to it, to mail the notice provided for in Section 12.01 to the Holders of the Bonds being refunded;

(c) Either (i) moneys in an amount sufficient to effect payment at the applicable Redemption Price of the Bonds to be refunded together with accrued interest on such Bonds to the redemption date or dates, which moneys shall be held by the Trustee or any one or more of the Paying Agents in a separate account irrevocably in trust for and assigned to the respective Holders of the Bonds to be refunded, or (ii) qualifying Investment Securities 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 subsection 2 of Section 12.01, which Investment Securities and moneys shall be held in trust and used only as provided in said subsection 2 of Section 12.01;

(d) A Certificate of an Authorized Officer of the I-Bank demonstrating that the I-Bank Bond Loan Repayments to become due in each Bond Year during which such Refunding Bonds shall be Outstanding shall be sufficient to pay, when due, the principal or Redemption Price of, and interest on, all Bonds Outstanding upon the authentication and delivery of such Series of Refunding Bonds;

(e) A verification report of an independent nationally recognized certified public accountant addressed to the I-Bank and the Trustee with respect to the matters set forth in (c) and (d) hereof; and

(f) In the event that a forward supply contract is employed in connection with the matters set forth in (c) and (d) hereof, (i) the verification report required by (e) hereof shall expressly state that the adequacy of the irrevocable trust described in (c) hereof to accomplish the issuance of Refunding Bonds relies solely on the initial investments and the maturing principal thereof and interest income thereon and does not assume performance under or compliance with the forward supply contract, and (ii) the escrow agreement entered into by the I-Bank pursuant to (c) hereof shall provide that, in the event of any discrepancy or differences between the terms of the forward supply contract and the escrow agreement, the terms of the escrow agreement shall be controlling.

3. The proceeds, including accrued interest, if any, of the Refunding Bonds of each Series shall be applied simultaneously with the delivery of such Refunding Bonds for the purposes of making deposits, if any, in such Funds and Accounts as shall be provided by the terms of the Supplemental Indenture authorizing such Series of Refunding Bonds and shall be applied to the refunding purposes thereof in the manner provided in said Supplemental Indenture.

#### **SECTION 2.05 Registration of the Series 202[ ] Financing Program Bonds Via the Book-Entry-Only System.**

1. Except as provided in subparagraph 3 of this Section 2.05, the registered Holder of all of the Series 202[ ] Financing Program Bonds shall be, and the Series 202[ ] Financing Program Bonds shall be registered in the name of, Cede & Co., as nominee of DTC. Payment of semiannual interest for any Series 202[ ] Financing Program Bond shall be made by wire transfer to the account of Cede & Co. on the Interest Payment Date for the Series 202[ ] Financing Program Bonds at the address indicated for Cede & Co. in the registry books of the I-Bank kept by the Trustee.

2. The Series 202[ ] Financing Program Bonds shall be issued initially in the form of a separate, single, fully registered Bond in the amount of the aggregate principal amount of each separate stated maturity of the Series 202[ ] Financing Program Bonds. Upon initial issuance, the ownership of each such Series 202[ ] Financing Program Bond shall be registered in the registry books of the I-Bank, kept by the Trustee, in the name of Cede & Co., as nominee of DTC. With respect to Series 202[ ] Financing Program Bonds registered in the registry books of the I-Bank, kept by the Trustee, in the name of Cede & Co., as nominee of DTC, the I-Bank and any Fiduciary shall have no responsibility or obligation to any participant or to any beneficial owner of such Series 202[ ] Financing Program Bonds. Without limiting the immediately preceding sentence, the I-Bank and any Fiduciary shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any participant with respect to any beneficial ownership interest in the Series 202[ ] Financing Program Bonds, (ii) the delivery to any participant, any beneficial owner or any other person, other than DTC, of any notice with respect to the Series 202[ ] Financing Program Bonds, including, without limitation, any notice of redemption, or (iii) the payment to any participant, any beneficial owner or any other person, other than DTC, of any amount with respect to the principal or Redemption Price of, or interest on, the Series 202[ ] Financing Program Bonds. The I-Bank and any Fiduciary may treat DTC as, and deem DTC to be, the absolute owner of each Series 202[ ] Financing Program Bond for the purpose of payment of the principal or Redemption Price



of, and interest on, each such Series 202[ ] Financing Program Bond, for the purpose of giving notices of redemption and other matters with respect to such Series 202[ ] Financing Program Bonds, for the purpose of registering transfers with respect to such Series 202[ ] Financing Program Bonds and for all other purposes whatsoever. The Paying Agent shall pay all principal or Redemption Price of, and interest on, the Series 202[ ] Financing Program Bonds only to, or upon the order of, DTC, and all such payments shall be valid and effective to fully satisfy and discharge the I-Bank's obligations with respect to the principal or Redemption Price of, and interest on, the Series 202[ ] Financing Program Bonds to the extent of the sum or sums so paid. No person, other than DTC, shall receive a Series 202[ ] Financing Program Bond evidencing the obligation of the I-Bank to make payments of principal or Redemption Price of, and interest on, the Series 202[ ] Financing Program Bonds pursuant to this Indenture. Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the transfer provisions hereof, the term "Cede & Co." as set forth in this Indenture shall be deemed to refer to such new nominee of DTC.

3. (a) DTC may determine to discontinue providing its services with respect to the Series 202[ ] Financing Program Bonds at any time by giving written notice to the I-Bank and the Fiduciaries and discharging its responsibilities with respect thereto, as provided in and by (i) the representation letter of the I-Bank and the Trustee addressed to DTC with respect to the Series 202[ ] Financing Program Bonds and (ii) applicable statutory or regulatory requirements as may be in effect from time to time.

(b) The I-Bank, in its sole discretion and without the consent of any other person, may terminate the services of DTC with respect to the Series 202[ ] Financing Program Bonds if the I-Bank so determines, and shall terminate the services of DTC with respect to the Series 202[ ] Financing Program Bonds upon receipt by the I-Bank and the Fiduciaries of written notice from DTC to the effect that DTC has received written notice from participants having interests, as shown in the records of DTC, in an aggregate principal amount of not less than fifty percent (50%) of the aggregate principal amount of the then Outstanding Series 202[ ] Financing Program Bonds to the effect that: (i) DTC is unable to discharge its responsibilities with respect to the Series 202[ ] Financing Program Bonds; or (ii) a continuation of the requirement that all of the Outstanding Series 202[ ] Financing Program Bonds be registered in the registration books kept by the Trustee in the name of Cede & Co., as nominee of DTC, is not in the best interest of the beneficial owners of the Series 202[ ] Financing Program Bonds.

(c) Upon the termination of the services of DTC with respect to the Series 202[ ] Financing Program Bonds pursuant to subsection 2.05(3)(b)(ii) hereof, or upon the discontinuance or termination of the services of DTC with respect to the Series 202[ ] Financing Program Bonds pursuant to subsection 2.05(3)(a) or subsection 2.05(3)(b)(i) hereof after which no substitute securities depository willing to undertake the functions of DTC hereunder can be found that, in the sole discretion and opinion of the I-Bank, is willing and able to undertake such functions upon reasonable and customary terms, the Series 202[ ] Financing Program Bonds shall no longer be restricted to being registered in the registration books kept by the Trustee in the name of Cede & Co., as nominee of DTC, but may be registered in whatever name or names Bondholders transferring or exchanging Series 202[ ] Financing Program Bonds shall designate, in accordance with the provisions of Article II hereof.

4. Notwithstanding any other provision of this Indenture to the contrary, so long as any Series 202[ ] Financing Program Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to the principal or Redemption Price of, and interest on, such Series 202[ ] Financing Program Bond and all notices with respect to such Series 202[ ] Financing Program Bond shall be made and given, respectively, to DTC as provided in and by (i) the representation letter of the I-Bank and the Trustee addressed to DTC with respect to the Series 202[ ] Financing Program Bonds, and (ii) applicable statutory or regulatory requirements as may be in effect from time to time.

5. In connection with any notice or other communication to be provided to Bondholders pursuant to this Indenture by the I-Bank or the Trustee with respect to any consent or other action to be taken by Bondholders, the I-Bank or the Trustee, as the case may be, shall establish a record date for such consent or other action and give DTC notice of such record date not less than fifteen (15) calendar days in advance of such record date to the extent possible.

**SECTION 2.06 Registration of the Series 202[ ] Financing Program WIFIA Bonds.**

1. The Series 202[ ] Financing Program WIFIA Bonds shall be registered in the registry books of the I-Bank, kept by the Trustee, in the name or names that the Bondholders holding such Series 202[ ] Financing Program WIFIA Bonds shall designate, in accordance with the provisions of Article III hereof. The initial registered Holder of the Series 202[ ] Financing Program WIFIA Bond shall be USEPA.

2. All payments with respect to the principal or Redemption Price of, and interest on, such Series 202[ ] Financing Program WIFIA Bond and all notices with respect to such Series 202[ ] Financing Program WIFIA Bond shall be made and given, respectively, to the registered Holders thereof as registered in the registry books of the I-Bank, kept by the Trustee.

3. Notwithstanding the provisions of this Section 2.06 to the contrary, either the I-Bank (but only if the Holder of the Series 202[ ] Financing Program WIFIA Bonds or any Series of Refunding Bond in connection therewith is not USEPA) or the Holder of the Series 202[ ] Financing Program WIFIA Bonds, in the respective sole discretion thereof and without the consent of any other person, may elect to register the Series 202[ ] Financing Program WIFIA Bonds via book-entry only procedures as provided in Section 2.05 hereof with respect to the Series 202[ ] Financing Program Bonds.

## ARTICLE III

### GENERAL TERMS AND PROVISIONS OF BONDS

#### SECTION 3.01 Medium of Payment; Form and Date; Letters and Numbers.

1. The Bonds of any Series shall be payable, with respect to interest and principal or Redemption Price, in any coin or currency of the United States of America that at the time of payment is legal tender for the payment of public and private debts.

2. The Series 202[ ] Financing Program Bonds shall be issued in the form of fully registered Bonds without coupons in denominations of \$5,000 or any whole multiple thereof. The Series 202[ ] Financing Program Bonds shall be in substantially the form attached hereto as Exhibit A-1. The Series 202[ ] Financing Program WIFIA Bonds shall be issued only in the form of fully registered Bonds without coupons in denominations of \$1.00 or any whole multiple thereof. The Series 202[ ] Financing Program WIFIA Bonds shall be in substantially the form attached hereto as Exhibit A-2. The Bonds of any other Series that shall be issued pursuant to this Indenture shall be issued only in the form of fully registered Bonds without coupons in denominations that shall be established pursuant to the Supplemental Indenture authorizing such Series; such Series of Bonds shall be substantially in the form set forth in the Supplemental Indenture authorizing such Series.

3. Each Bond of a Series shall be lettered and numbered as provided in this Indenture or the Supplemental Indenture providing for the issuance of the Series of which such Bond is a part and so as to be distinguished from every other Bond of such Series.

Bonds of each Series issued on the date of original issuance shall be dated and bear interest from the date set forth in this Indenture or the Supplemental Indenture authorizing such Series of Bonds. Bonds of each Series issued after the date of original issuance shall be dated as of the date of authentication thereof by the Trustee and interest on each such Bond shall be payable from the most recent Interest Payment Date next preceding the date of authentication of such Bond to which interest has been paid, unless (i) the date of authentication of such Bond is an Interest Payment Date to which interest has been paid, in which case interest shall be payable from such Interest Payment Date, or (ii) the date of such Bond is prior to the first Interest Payment Date on the Bonds, in which case interest shall be payable from the earliest date on which interest shall have accrued on the Bonds, or (iii) the date of such Bond is between the Record Date and the next succeeding Interest Payment Date, in which case interest shall be payable from such Interest Payment Date.

4. The interest on, and principal or Redemption Price, if any, of, each Series of Bonds shall be payable as provided in this Indenture or the Supplemental Indenture relating to such Series of Bonds

**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 Indenture as may be necessary or desirable to comply with custom, the rules of any securities exchange or commission 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 Execution and Authentication.

1. 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.

2. 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 3.04      Transfer and Registry.**

1. Each Bond shall be transferable only upon the books of the I-Bank, which shall be kept for that purpose at the Principal Office of the Trustee, by the Holder thereof in person or by his or her attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the Trustee and duly executed by the Holder or his or her duly authorized attorney. Upon the transfer of any such Bond, the I-Bank shall issue in the name of the transferee a new Bond or Bonds of the same aggregate principal amount and Series, form and maturity, and bearing interest at the same rate, as the surrendered Bond.

2. The I-Bank and each Fiduciary may deem and treat the person in whose name any Bond shall be registered upon the books of the I-Bank as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and Redemption Price, if any, of and interest on, such Bond and for all other purposes, and all such payments so made to any such Holder or upon his or her order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the I-Bank nor any Fiduciary shall be affected by any notice to the contrary. The I-Bank agrees to reimburse each Fiduciary for any and all loss, cost, charge, expense (including legal fees), judgment or liability incurred by it, acting in good faith and without negligence, gross negligence or misconduct, pursuant to this Indenture, in so treating such Holder, and that such reimbursement obligation shall survive the payment of the Bonds and the discharge of this Indenture.

**SECTION 3.05      Regulations With Respect to Exchanges and Transfers.** In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, the I-Bank shall execute, and the Trustee shall authenticate and deliver, Bonds in accordance with the provisions of this Indenture. All Bonds surrendered in any such exchange or transfer shall forthwith be canceled by the Trustee. For every such exchange or transfer of Bonds, whether temporary or definitive, the I-Bank or 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. Neither the I-Bank nor the Trustee shall be required (a) to transfer or exchange Bonds for a period beginning on the Record Date preceding an Interest Payment Date for the Bonds and ending on such Interest Payment Date, or for a period of fifteen (15) days (or such lesser period as may be specified in a Supplemental Indenture for a particular Series of Bonds) preceding the date (as

determined by the Trustee) of any selection of Bonds to be redeemed or thereafter until after the mailing of any notice of redemption; or (b) to transfer or exchange any Bonds called or tendered for redemption.

**SECTION 3.06 Bonds Mutilated, Destroyed, Stolen or Lost.** In the event that any Bond shall become mutilated or be destroyed, stolen or lost, the I-Bank shall execute, and thereupon 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 Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, upon filing with the Trustee evidence satisfactory to the I-Bank and the Trustee that such Bond has been destroyed, stolen or lost and proof of ownership thereof, and, other than in the case of the Series 202[ ] Financing Program WIFIA Bonds or any Series of Refunding Bonds issued in connection therewith for which USEPA or a Federal Agency is the Holder, upon furnishing the I-Bank and the Trustee with indemnity satisfactory to them, and upon complying with such other reasonable regulations as the I-Bank and the Trustee may prescribe and paying such expenses as the I-Bank and Trustee may incur. All mutilated Bonds so surrendered to the Trustee shall be canceled by it. Any such new Bonds issued pursuant to this Section in substitution for Bonds alleged to be destroyed, stolen or lost shall constitute original additional contractual obligations on the part of the I-Bank, whether or not the Bonds so alleged to be destroyed, stolen or lost be at any time enforceable by anyone, and shall be equally secured by, and entitled to equal and proportionate benefits with all other Bonds issued pursuant to this Indenture in, any moneys or securities held by the I-Bank or any Fiduciary for the benefit of the Bondholders.

#### **SECTION 3.07 Temporary Bonds.**

1. Until the definitive Bonds of any Series are prepared, the I-Bank may execute, in the same manner as is provided in Section 3.03, and upon the request of the I-Bank, the Trustee shall authenticate and deliver, in lieu of definitive Bonds, but subject to the same provisions, limitations and conditions as the definitive Bonds, one or more temporary Bonds substantially of the tenor of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued, and with such omissions, insertions and variations as may be appropriate to temporary Bonds. The I-Bank at its own expense shall prepare and execute and, upon the surrender of such temporary Bonds for exchange and the cancellation of such surrendered temporary Bonds, the Trustee shall authenticate and, without charge to the Holder thereof, deliver in exchange therefor, definitive Bonds of the same aggregate principal amount and Series, form and maturity, and bearing interest at the same rate, as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds authenticated and issued pursuant to this Indenture.

2. All temporary Bonds surrendered in exchange either for another temporary Bond or Bonds or for a definitive Bond or Bonds shall be forthwith canceled by the Trustee.

**SECTION 3.08 Cancellation and Destruction of Bonds.** All Bonds paid or redeemed in full, either at or before maturity, shall be delivered to the Trustee when such payment or redemption is made, and such Bonds, together with all Bonds purchased by the Trustee, shall thereupon be promptly canceled. Bonds so canceled may at any time be destroyed by the Trustee, who shall execute a Certificate of destruction in duplicate by the signature of one of its Authorized Officers describing the Bonds so destroyed, and one executed Certificate shall be filed with the I-Bank and the other executed Certificate shall be retained by the Trustee.

## ARTICLE IV

### REDEMPTION OF BONDS PRIOR TO MATURITY

**SECTION 4.01 Privilege of Redemption and Redemption Price.** Bonds subject to redemption prior to maturity pursuant to this Indenture shall be redeemable, upon notice as provided in this Article IV, at such times, at such Redemption Prices and upon such terms in addition to the terms contained in this Article IV as may be specified in this Indenture, and the Supplemental Indenture authorizing such Series of Bonds. In order to redeem Bonds prior to maturity, the Redemption Price plus accrued interest thereon shall be deposited with the Trustee in immediately available funds not later than 11:00 a.m., New York City time, on the redemption date.

### **SECTION 4.02 Optional, Mandatory and Mandatory Sinking Fund Redemption.**

1. The Series 202[ ] Financing Program Bonds shall be subject to optional redemption and mandatory sinking fund redemption in accordance with the provisions of this Indenture, including, without limitation, Sections 2.03(5) and (6), respectively, hereof. The Series 202[ ] Financing Program WIFIA Bonds shall be subject to optional redemption, mandatory redemption and mandatory sinking fund redemption in accordance with the provisions of this Indenture, including, without limitation, Sections 2.03A(5) and (6), respectively, hereof.

2. In the case of any redemption of Bonds at the election or direction of the I-Bank, the I-Bank shall give written notice to the Trustee of its election or direction to so redeem, of the redemption date, of the principal amounts of the Bonds of each maturity to be redeemed and of the order of maturity to be redeemed (which maturities, principal amounts thereof to be redeemed and order of maturity to be redeemed shall be determined by the I-Bank in its sole discretion, subject to any limitations with respect thereto contained in this Indenture, including, without limitation, the limitations and requirements set forth in subsection 5 of Section 2.03A hereof and this subsection 2 of Section 4.02). In connection with the prepayment by a Borrower of its I-Bank Loan on any date on which both Series 202[ ] Financing Program Bonds and Series 202[ ] Financing Program WIFIA Bonds remain outstanding, the optional redemption of Series 202[ ] Financing Program Bonds pursuant to Section 2.03(5) hereof and the mandatory redemption of Series 202[ ] Financing Program WIFIA Bonds pursuant to Section 2.03A(5) hereof shall be applied to reduce future maturities of each such Series of Bonds then outstanding in inverse order of maturity, as directed via a Certificate of an Authorized Officer of the I-Bank delivered to the Trustee at or prior to such redemptions, beginning with the latest maturity then outstanding as between each Series of Bonds; provided, however, that if on any given maturity date on which a Borrower prepayment is applied to a given maturity, pursuant to these redemption provisions, both Series 202[ ] Financing Program Bonds and Series 202[ ] Financing Program WIFIA Bonds remain outstanding, such Borrower prepayment shall be allocated as between each such Series of Bonds maturing on such maturity date pro rata as between each such maturity based upon the principal amount thereof, all as directed in the above-referenced Certificate of an Authorized Officer of the I-Bank. The notice required hereby shall be given by the I-Bank to the Trustee at least thirty-five (35) days prior to the redemption date or such shorter period as shall be agreed to in writing by the Trustee. In the event notice of redemption shall have been given as provided in Section 4.05, the I-Bank shall pay or require the Applicable Borrower to pay to the Trustee on or prior to the redemption date an amount in cash which, in addition to other moneys, if any, available therefor and held by the Trustee, will be sufficient to redeem on the redemption date at the Redemption Price thereof, plus interest accrued and unpaid to the redemption date, all of the Bonds to be redeemed.

**SECTION 4.03 Redemption Otherwise than at I-Bank's Election or Direction.** Whenever by the terms of this Indenture the Trustee is required or authorized to redeem Bonds otherwise than at the election or direction of the I-Bank, the Trustee shall select the Bonds to be redeemed, give the notice of

redemption as provided in Section 4.05 and pay out of moneys available therefor at the Redemption Price thereof, plus interest accrued and unpaid to the redemption date, to the Paying Agent in accordance with the terms of this Article IV and, to the extent applicable, Article V hereof.

**SECTION 4.04 Selection of Bonds to Be Redeemed.** 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 (as established by the terms of Section 2.03(3) or Section 2.03A(3), as applicable, and Section 3.01(2) or the Applicable Supplemental Indenture) 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.

**SECTION 4.05 Notice of Redemption.** When Bonds of a Series have been selected for redemption pursuant to any provision of this Indenture, the Trustee shall give written notice of the redemption of such Bonds in the name of the I-Bank at the times specified in the second paragraph of this Section, which notice shall set forth: (i) the Series of the Bonds to be redeemed, (ii) the date fixed for redemption, (iii) the Redemption Price to be paid, (iv) that such Bonds will be redeemed at the Principal Office of the Paying Agent, (v) if less than all of such Bonds shall be called for redemption, the distinctive numbers and letters, if any, of such Bonds to be redeemed, (vi) in the case of Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed, and (vii) except with respect to a mandatory sinking fund redemption, that such redemption is conditioned upon there being on deposit with the Trustee, on the date designated for redemption, moneys sufficient for the payment of the Redemption Price and the accrued interest to the redemption date. Such notice shall further state that on the redemption date there shall become due and payable the Redemption Price of all Bonds to be redeemed, together with interest accrued to the redemption date, and that, from and after such date, interest thereon shall cease to accrue. In the event that any Bond of a Series is to be redeemed in part only, the notice of redemption that relates to such Bond to be redeemed shall state also that on or after the redemption date, upon surrender of such Bond, the Holder of the unredeemed portion of such Bond shall be entitled to a new Bond or Bonds of the same Series, maturity and form, bearing interest at the same rate and in aggregate principal amount equal to the unredeemed portion of such Bond; provided, however, that no such statement shall be required with respect to the Series 202[ ] Financing Program WIFIA Bonds or any Series of Refunding Bonds issued in connection therewith, unless (A) such Bonds are held in book-entry-only form pursuant to Section 2.05 hereof and/or (B) such Bonds are held by a Holder other than USEPA and any Federal Agency.

The notice required to be given by the Trustee pursuant to this Section shall be sent by first class mail to the registered owners of the Bonds to be redeemed, at their addresses as they appear on the Bond registration books of the I-Bank, not less than thirty (30) nor more than forty-five (45) days prior to the redemption date. The failure to give notice of the redemption of any Bond or portion thereof to the registered owner of such Bond as herein provided shall not affect the validity of the proceedings for the redemption of any Bonds for which notice of redemption has been given in accordance with the provisions of this Section.

**SECTION 4.06 Payment of Redeemed Bonds.** On the date designated for redemption, notice having been given in the manner and under the conditions hereinabove provided, the Bonds or portions of Bonds called for redemption shall become and be due and payable at the Redemption Price provided for redemption of such Bonds or such portions thereof on such date and, if upon presentation and surrender (or upon the scheduled date for such redemption in the case of Bonds not required to be presented and surrendered hereunder), moneys for the payment of the Redemption Price and the accrued interest to the redemption date are held in a separate account by the Trustee in trust for the holders of such Bonds, interest

on such Bonds or such portions thereof so called for redemption shall cease to accrue, such Bonds or such portions thereof shall cease to be entitled to any benefit or security pursuant to this Indenture and the Holders of such Bonds or portions of Bonds shall have no rights in respect thereof except to receive payment of the Redemption Price thereof and the accrued interest thereon and, to the extent provided in Section 4.07 hereof, to receive Bonds for any unredeemed portions of Bonds.

**SECTION 4.07 Redemption of Portions of Bonds.** With respect to (i) the Series 202[ ] Financing Program Bonds and any Series of Refunding Bonds issued in connection therewith and (ii) the Series 202[ ] Financing Program WIFIA Bonds and any Series of Refunding Bonds issued in connection therewith that either (A) are then held in book-entry-only form pursuant to Section 2.05 hereof or (B) are held by a Holder other than USEPA and any Federal Agency, in the event that part, but not all, of any such Outstanding Bond shall be selected for redemption, upon presentation and surrender of such Bond to the Paying Agent for payment of the principal amount thereof so called for redemption and accrued interest thereon on or after the redemption date, the I-Bank shall execute and the Trustee shall authenticate and deliver to or upon the order of the registered owner thereof or his attorney or legal representative, without charge therefor, a Bond or Bonds of the same Series, form and maturity, bearing interest at the same rate and of any denomination or denominations authorized by this Indenture in aggregate principal amount equal to the unredeemed portion of such Bond.



## ARTICLE V

### REVENUES AND FUNDS

**SECTION 5.01 Creation of Funds and Accounts.** The following Funds, separate Accounts within Funds and separate Subaccounts within Accounts shall be established, held and maintained for the Bonds:

1. For each of the Series 202[ ] Financing Program Bonds and the Series 202[ ] Financing Program WIFIA Bonds, a Debt Service Fund, to be held by the Trustee, which, in each case (except as indicated hereinafter), shall consist of an Interest Account, a Capitalized Interest Account (with respect to the Series 202[ ] Financing Program Bonds, only), a Principal Account and a Redemption Account, each of which Accounts shall be further subdivided into an SRF Subaccount and a non-SRF Subaccount, each of which Subaccounts shall be further subdivided into a Clean Water Subaccount and a Drinking Water Subaccount;

2. For the Series 202[ ] Financing Program WIFIA Bonds only and upon the occurrence of a Default Rate Debt Service Reserve Trigger Event, a Default Rate Debt Service Reserve Fund, to be held by the Trustee, which shall consist of an I-Bank Contributions Account, which I-Bank Contributions Account shall be subdivided into a Clean Water Subaccount and a Drinking Water Subaccount, a Late Fee Account and an MPTA Account;

3. For each of the Series 202[ ] Financing Program Bonds and the Series 202[ ] Financing Program WIFIA Bonds, a General Fund, to be held by the Trustee, which, in each case, shall consist of an SRF Account and a non-SRF Account to the extent necessary and/or appropriate, each of which Accounts shall be subdivided into a Clean Water Subaccount and a Drinking Water Subaccount to the extent necessary and/or appropriate;

4. An Operating Expense Fund, to be held by the I-Bank, which shall consist of an Administrative Fee Account and a Costs of Issuance Account;

5. For each of the Series 202[ ] Financing Program Bonds and the Series 202[ ] Financing Program WIFIA Bonds, a Project Fund, to be held by the Trustee, which, in each case, shall consist of a separate Project Loan Account established (i) for each Borrower to which a single Loan is to be made from a portion of the proceeds of, respectively, the Series 202[ ] Financing Program Bonds or the Series 202[ ] Financing Program WIFIA Bonds and, if applicable, (ii) for each Loan with respect to any Borrowers that have received two or more Loans from a portion of the proceeds of, respectively, the Series 202[ ] Financing Program Bonds or the Series 202[ ] Financing Program WIFIA Bonds, each of which Project Loan Accounts shall be designated as either a "Clean Water SRF Project Loan Account", a "Drinking Water SRF Project Loan Account", a "Clean Water non-SRF Project Loan Account" or a "Drinking Water non-SRF Project Loan Account", all pursuant to Section 5.02 hereof; provided, however, that, to the extent a single Loan is made by the I-Bank to finance multiple projects, the Trustee shall, upon the direction of an Authorized Officer of the I-Bank, establish Subaccounts within a particular Project Loan Account with respect to each individual project;

6. A Revenue Fund, to be held by the Trustee, which shall consist of (i) an I-Bank Bond Loan Repayments Account, consisting of an SRF Subaccount and a non-SRF Subaccount to the extent necessary and/or appropriate, each of which Subaccounts further shall be subdivided into a Clean Water Subaccount and a Drinking Water Subaccount to the extent necessary and/or appropriate; and (ii) a State Loan Repayments Account, consisting of an SRF Subaccount and a non-SRF Subaccount to the extent necessary

and/or appropriate, each of which Subaccounts further shall be subdivided into a Clean Water Subaccount and a Drinking Water Subaccount to the extent necessary and/or appropriate; and

7. For the Series 202[ ] Financing Program Bonds only, a Rebate Fund, to be held by the Trustee, which shall consist of a General Rebate Account.

8. Pursuant to a Certificate of an Authorized Officer of the I-Bank, the I-Bank may direct the Trustee to establish additional Funds, Accounts within Funds, and Subaccounts within Accounts, in the manner set forth in such Certificate.

Each of the Funds, Accounts and Subaccounts created by this Indenture, other than the Operating Expense Fund, each Project Fund, the Rebate Fund and the Default Rate Debt Service Reserve Fund (and all Accounts and Subaccounts therein), is hereby pledged to, and charged with, the payment of the principal or Redemption Price of and interest on the Bonds, as applicable, as the same shall become due; provided, however, that the Default Rate Debt Service Reserve Fund is pledged hereby solely to secure and fund the payment liability of the I-Bank with respect to any Default Rate Liability applicable to the Series 202[ ] Financing Program WIFIA Bonds and any Series of Refunding Bonds issued in connection therewith that are held by USEPA or any Federal Agency, as and to the extent provided herein.

## **SECTION 5.02 Project Fund.**

1. There shall be established within each Project Fund a separate Project Loan Account in favor of each respective Borrower to which a Loan is to be made pursuant to a Loan Agreement.

2. There shall be deposited into each Project Loan Account from the proceeds of the Applicable Series 202[ ] Bonds the respective amounts set forth in Section 2.03(7)(f) and Section 2.03A(7)(f) hereof, as the case may be, pursuant to the terms of which each such Project Loan Account is thereby designated as either a "Clean Water SRF Project Loan Account", a "Drinking Water SRF Project Loan Account", a "Clean Water non-SRF Project Loan Account" or a "Drinking Water non-SRF Project Loan Account".

3. The Trustee shall make payments from a Project Loan Account for Costs of the respective Borrower's Project in the amounts, at the times, in the manner, and pursuant to the other terms and conditions set forth in this Section 5.02 and in such Borrower's Loan Agreement. Before any such payment shall be made, an Authorized Officer of the Borrower (or a designee thereof) shall file with the Trustee the requisition of the Borrower for such Costs of such Borrower's Project, as such requisition shall be approved by an Authorized Officer of the I-Bank, which requisition shall be in a form as shall be determined from time to time by the Executive Director or other Authorized Officer of the I-Bank. The Trustee shall issue its check for each payment required by such requisition or shall, by interbank transfer or other method of transfer, arrange to make the payment required by such requisition. No disbursement from the respective Project Loan Account 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 approval by an Authorized Officer of the I-Bank of the requisition as referenced herein.

4. The I-Bank shall file with the Trustee a Certificate, signed by an Authorized Officer of the I-Bank, with respect to each Project Loan Account directing the Trustee to transfer to the Applicable Debt Service Fund (and the appropriate Account and Subaccount therein), to be applied as a credit against and considered as I-Bank Bond Loan Repayments due from the respective Borrower in whose favor any such Project Loan Account was established, all of the moneys remaining in any such Project Loan Account at the following times and upon satisfaction of the following conditions: (A) the I-Bank has approved all requisitions to be paid from any such Project Loan Account that are eligible to be approved under the

Regulations; or (B) the occurrence of the Project Loan Account Disbursement Deadline, as such term is defined in the Applicable Borrower's respective Loan Agreement; provided, however, notwithstanding the provisions hereof to the contrary, the I-Bank shall implement a redemption of the Applicable Series 202[ ] Bonds pursuant to the terms of this Indenture to the extent provided by the terms of Section 3.03A of the Applicable Borrower's respective Loan Agreement. Such Certificate shall (X) state that, as applicable, the proceeds of the Loan have been fully disbursed to the extent allowed by the Regulations, or the Project Loan Account Disbursement Deadline has occurred, and either (Y) set forth a schedule indicating when and how much of the remaining moneys are to be transferred, on a Pro Rata Basis, as and to the extent applicable, to the Applicable Debt Service Fund (and the appropriate Account and Subaccount therein) and applied as a credit against and considered as I-Bank Bond Loan Repayments due from the respective Borrower in whose favor the Project Loan Account was established, or (Z) state that such moneys remaining in such Project Loan Account shall be allocated to the implementation of a redemption of the Applicable Series of Bonds, on a Pro Rata Basis, as and to the extent applicable, pursuant to the terms of this Indenture to the extent provided by the terms of Section 3.03A of the Applicable Borrower's respective Loan Agreement. The Trustee shall transfer from any such Project Loan Account to the appropriate Account within the Applicable Debt Service Fund (as determined by the application of clause (X) and clause (Y) or clause (Z), above) and within such Account either the SRF Subaccount or the non-SRF Subaccount, and within such Subaccounts, either the Clean Water Subaccount or the Drinking Water Subaccount, as applicable, the amounts identified in any such Certificate of the I-Bank at the times indicated therein.

### **SECTION 5.03      Operating Expense Fund.**

1.        There shall be established within the Operating Expense Fund a Costs of Issuance Account and an Administrative Fee Account.

2.        In addition to the amounts deposited in the Costs of Issuance Account from the proceeds of the Applicable Series 202[ ] Bonds pursuant to Section 2.03(7)(b) and Section 2.03A(7)(b) hereof, as the case may be, there shall be deposited in the Costs of Issuance Account, from the proceeds of each Series of Refunding Bonds, as applicable, the amounts set forth for deposit therein pursuant to the Supplemental Indentures authorizing the issuance of each such Series of Refunding Bonds.

3.        The I-Bank shall make payments from the Costs of Issuance Account and, to the extent necessary, from its funds and accounts not subject to the pledge and lien of this Indenture, in the amounts, at the times, in the manner and on the other terms and conditions as the I-Bank shall determine to be fair and reasonable in the payment of the particular items of the Costs of Issuance relating to the issuance of a particular Series of Bonds and, in the case of the Series 202[ ] Financing Program Bonds, in accordance with the provisions of the Tax Certificate relating thereto. Upon the payment of all Applicable Costs of Issuance, as evidenced by a Certificate of an Authorized Officer of the I-Bank to such effect, the amounts remaining in the Costs of Issuance Account, if any, shall be transferred as shall be set forth in such Certificate of an Authorized Officer of the I-Bank and, in the case of the Series 202[ ] Financing Program Bonds, in accordance with the provisions of the Tax Certificate relating thereto.

4.        The Trustee shall deposit, in the Administrative Fee Account, the Administrative Fees received by the Trustee on behalf of the I-Bank pursuant to the Loan Agreements. The I-Bank shall utilize moneys on deposit in the Administrative Fee Account from time to time to pay the operating expenses of the I-Bank, as well as to pay for any other corporate purposes of the I-Bank that are permitted by the Act; provided, however, that in any Bond Year the moneys on deposit in the Administrative Fee Account shall be applied by the I-Bank in satisfaction of the operating expenses of the I-Bank arising pursuant to this Indenture in such Bond Year before such moneys may be applied in satisfaction of either (i) the other operating expenses of the I-Bank arising in such Bond Year or (ii) any other corporate purposes of the I-Bank arising in such Bond Year that are permitted by the Act.

**SECTION 5.04 Revenues.** The Trustee, as agent for the I-Bank and the State, shall perform the following duties and services:

1. The Trustee shall collect from each Borrower all required I-Bank Bond Loan Repayments, State Loan Repayments, Administrative Fee payments, and State Administrative Fee payments, when due, in the amounts and at the times established by the I-Bank in a Certificate of an Authorized Officer of the I-Bank. The I-Bank shall use its best efforts to provide such Certificate to the Trustee no less than sixty (60) 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 Certificate of an Authorized Officer of the I-Bank. To the extent the Trustee deems it necessary or appropriate, the Trustee may, and is hereby authorized to, establish a Clearing Account for the purpose of administering the collection of such payments. 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 and the State, to the extent of their respective interests therein, (b) in making such collections, the Trustee shall act as an agent for the I-Bank and the State, to the extent of their respective interests therein, (c) all amounts so collected by the Trustee shall be the property of the I-Bank and the State, to the extent of their respective interests therein, and not of the Trustee, (d) all such amounts, when received by the Trustee, shall be deemed to be received by the I-Bank and the State, to the extent of their respective interests therein, as determined in accordance with paragraph (3) below, and (e) the amounts deemed received by the I-Bank as I-Bank Bond Loan Repayments and by the State as State Loan Repayments pursuant to the terms hereof, immediately upon receipt by the Trustee, shall be deemed to be Revenues, and shall be included in the Trust Estate established and pledged as security for the Bonds pursuant to this Indenture.

2. Promptly after collection of each I-Bank Bond Loan Repayment, State Loan Repayment, Administrative Fee payment, State Administrative Fee payment or other required payment from a Borrower, the Trustee shall credit such Borrower with each of the respective sums collected. Moneys received from each Borrower with respect to a particular payment date shall be credited, *first*, to the payment then due (other than the Administrative Fee payment) under the Loan Agreement, *second*, to the Administrative Fee payment then due under the Loan Agreement, *third*, to the payment then due (other than the State Administrative Fee payment, if any) under the State Loan Agreement, and, *fourth*, to the State Administrative Fee payment, if any, then due under the State Loan Agreement.

3. Promptly after crediting each Borrower pursuant to the order of priority established pursuant to paragraph (2), above, for the moneys received from each Borrower with respect to a particular payment date, the Trustee shall deposit the sums collected in the accounts established for such payments in the following order of priority of such deposits and the required amounts of such deposits:

(a) (i) First, into the I-Bank Bond Loan Repayments Account within the Revenue Fund established pursuant to this Indenture, a sum or sums from moneys credited as I-Bank Bond Loan Repayments equal to the amount required for the next immediate debt service payment date for the Bonds on a Pro-Rata Basis, and (ii) second, into the Administrative Fee Account in the Operating Expense Fund established pursuant to this Indenture, all moneys credited as Administrative Fee payments that are then due to the I-Bank from each Borrower pursuant to its respective Loan Agreement;

(b) After depositing the required amounts pursuant to paragraph (3)(a), above, into the State Loan Repayments Account within the Revenue Fund established pursuant to this Indenture, all moneys credited as State Loan Repayments;

(c) (i) If, upon depositing the required amounts pursuant to paragraphs (3)(a) and (3)(b), above, the amounts on deposit in the I-Bank Bond Loan Repayments Account within the Revenue Fund are not sufficient to make all of the payments due with respect to the Bonds on the next immediate

debt service payment date for such Bonds, then the Trustee shall transfer from the State Loan Repayments Account within the Revenue Fund to the I-Bank Bond Loan Repayments Account within the Revenue Fund an amount on a Pro-Rata Basis equal to the difference between: (1) the amount on deposit in the I-Bank Bond Loan Repayments Account within the Revenue Fund and (2) the amount required to make all of the payments due on the next immediate debt service payment date for the Bonds;

(ii) If, upon depositing the required amounts pursuant to paragraphs (3)(a) and (3)(b), above, and after giving effect to any transfers required by paragraph 3(c)(i), above, the amounts on deposit in the I-Bank Bond Loan Repayments Account within the Revenue Fund are sufficient to make all of the payments due with respect to the Bonds on the next immediate debt service payment date for such Bonds, then the Trustee shall transfer immediately to the WIFIA Master Program Trust Account from moneys on deposit in the State Loan Repayments Account within the Revenue Fund that are credited as State Loan Repayments corresponding to the next immediate debt service payment date for the Bonds, for deposit and disbursement in accordance with the terms and conditions of the WIFIA Master Program Trust Agreement;

(d) Upon depositing and/or transferring the required amounts pursuant to paragraphs (3)(a), (3)(b) and (3)(c), above, to the State all moneys credited as State Administrative Fee payments, if any, that are then due to the State from each Borrower pursuant to its respective State Loan Agreement; and

(e) Upon depositing the required amounts pursuant to paragraphs (3)(a), (3)(b), (3)(c) and (3)(d), above, into the applicable Account within the Revenue Fund all remaining moneys, if any, credited as Loan Repayments, to be applied in satisfaction of the amounts next required to be disbursed as provided under this paragraph (3) in the sequence and manner established pursuant to this paragraph (3).

In making the deposits required by the provisions of this subsection (3), 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 Certificate required by the provision of subsection (1) of this Section 5.04.

4. Further, any credit, deposit or transfer required to be made pursuant to subsection (3) shall take into account the amounts, if any, on deposit in the Capitalized Interest Account within the Debt Service Fund, 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 this Indenture and the Certificate required by the provision of subsection (1) of this Section 5.04. If a payment of amounts due under a Loan Agreement or a State Loan Agreement is not received on or before the required payment date established therefor pursuant to such Loan Agreement or State Loan Agreement, the Trustee shall notify the I-Bank, the State, the Borrower and, if applicable in the case of an authority Local Government Unit Borrower or a Public Water Utility Borrower, the trustee under the Borrower Bond Resolution thereof (as such term is defined in the Applicable Loan Agreement) in writing on the first Business Day after such payment date that the payment is past due pursuant to such Loan Agreement or State Loan Agreement. If a payment of amounts due under a Loan Agreement or a State Loan Agreement is not received from the Borrower within ten days following the date when such payment is due pursuant to such Loan Agreement or State Loan Agreement, the Trustee shall promptly notify the I-Bank, the State, the Borrower and, if applicable in the case of an authority Local Government Unit Borrower or a Public Water Utility Borrower, the trustee under the Borrower Bond Resolution thereof in writing on the first Business Day thereafter.

5. The Trustee shall promptly notify the I-Bank, the State, the Borrower and, if applicable, the trustee under the Borrower Bond Resolution in writing on the first Business Day after a payment date pursuant to a Loan Agreement if the moneys received from the Borrower pursuant to paragraph (2) of this Section 5.04 with respect to such payment date are insufficient to satisfy in full the I-Bank Bond Loan

Repayments and Administrative Fee payments then due under the Loan Agreement. The Trustee shall promptly notify the I-Bank, the State, the Borrower and, if applicable, the trustee under the Borrower Bond Resolution in writing on the first Business Day after a payment date pursuant to a State Loan Agreement if the moneys received from the Borrower pursuant to paragraph (2) of this Section 5.04 with respect to such payment date are insufficient to satisfy in full the State Loan Repayments and State Administrative Fee payments then due under the State Loan Agreement. The Trustee shall also notify the I-Bank and the State if an I-Bank Bond Loan Repayment deficiency cannot be satisfied from Loan Repayments deposited pursuant to Section 5.04(3)(a) hereof.

6. In connection with the obligation of the Trustee pursuant to subsections (4) and (5) of this Section 5.04 to provide written notice to a trustee under a Borrower Bond Resolution, the I-Bank shall use its best efforts to maintain on file with the Trustee a list of such trustees, with relevant address and contact information included in such list. However, the failure of the I-Bank to provide such list to the Trustee shall not relieve the Trustee of the obligation to provide the written notice to such a trustee pursuant to the provisions of subsections (4) and (5) of this Section 5.04.

#### **SECTION 5.05 Revenue Fund.**

1. On or prior to each Interest Payment Date, the Trustee shall transfer from amounts in the SRF Subaccount and the non-SRF Subaccount (and the Applicable Subaccounts therein) of the I-Bank Bond Loan Repayments Account within the Revenue Fund to the SRF Subaccount and the non-SRF Subaccount (and the Applicable Subaccounts therein), as applicable, of the Interest Account in the Applicable Debt Service Fund, the amount, on a Pro-Rata Basis, that, together with the amounts, if any, already on deposit in such Subaccounts of such Interest Account (other than Net Earnings on amounts that have been received in such Interest Account since the immediately preceding Interest Payment Date) and the amounts, if any, on deposit in the Capitalized Interest Account and designated for use on such Interest Payment Date pursuant to this Indenture or a Supplemental Indenture, is equal in the aggregate to the interest due and payable on the Applicable Bonds on such Interest Payment Date.

2. On or prior to September 1 of each year through and including final maturity of the Bonds, the Trustee shall transfer from moneys on deposit in the SRF Account and the non-SRF Account (and the Applicable Subaccounts therein) of the I-Bank Bond Loan Repayments Account within the Revenue Fund to the SRF Subaccount and the non-SRF Subaccount (and the Applicable Subaccounts therein), as applicable, of the Principal Account in the Applicable Debt Service Fund the amount, on a Pro-Rata Basis, that, together with the amounts, if any, already on deposit in such Subaccounts of such Principal Account (other than Net Earnings on amounts that have been received in such Principal Account since the immediately preceding Interest Payment Date), is equal in the aggregate to the principal, including Sinking Fund Installments, if any, due and payable on the Applicable Bonds on such September 1.

3. On or prior to each redemption date, other than a Sinking Fund Installment due date, the Trustee shall transfer, on a Pro-Rata Basis, from moneys on deposit in the SRF Account and the non-SRF Account (and the Applicable Subaccounts therein) of the I-Bank Bond Loan Repayments Account within the Revenue Fund (i) to the SRF Subaccount and the non-SRF Subaccount (and the Applicable Subaccounts therein), as applicable, of the Redemption Account in the Applicable Debt Service Fund an amount equal in the aggregate to the Redemption Price due and payable on all Applicable Bonds to be redeemed on such redemption date and (ii) to the SRF Subaccount and the non-SRF Subaccount (and the Applicable Subaccounts therein), as applicable, of the Interest Account in the Applicable Debt Service Fund an amount equal in the aggregate to the interest accrued and not paid and to accrue on all such Applicable Bonds to such redemption date. In connection with the Series 202[ ] Financing Program Bonds, money received from a Borrower prior to September 1 [20 ] (the first optional redemption date pursuant to Section 2.03(3) hereof) in connection with a prepayment of its Loan as and to the extent permitted pursuant to its respective

Loan Agreement and pursuant to the terms hereof shall be held in the accounts identified in a Certificate of an Authorized Officer of the I-Bank prior to September 1, [20\_\_] for disbursement at the times and in the amounts set forth therein.

4. Reserved.

5. The Trustee shall keep records and accounts with respect to the Revenue Fund. Such records shall be in such format so that (i) all amounts received by the Trustee from the Borrowers pursuant to the Loan Agreements can be properly designated, pursuant to Section 5.04 hereof, as interest or principal payments on the Loans, or other amounts payable pursuant to the Loan Agreements or Net Earnings attributable to such amounts, and (ii) all amounts received by the Trustee from the Borrowers pursuant to the State Loan Agreements can be properly designated, pursuant to Section 5.04 hereof, as State Loan Repayments pursuant to the State Loan Agreements, or other amounts payable pursuant to the State Loan Agreements, or Net Earnings attributable to such amounts.

#### **SECTION 5.06 Debt Service Fund.**

1. On each Interest Payment Date and each redemption date, the Trustee shall withdraw from the Capitalized Interest Account, if so designated (pursuant to the terms hereof or of the Applicable Supplemental Indenture), and the Interest Account, in each case, in the Applicable Debt Service Fund, amounts equal in the aggregate to the interest due on the Applicable Bonds on such Interest Payment Date or redemption date, which moneys shall be paid by the Paying Agent in accordance with Section 3.01 hereof.;

2. On the maturity or Sinking Fund Installment due date of any Bonds, the Trustee shall make available to the Paying Agent from moneys in the Principal Account in the Applicable Debt Service Fund an amount equal in the aggregate to the principal or Redemption Price of such Bonds due on such date, which moneys shall be applied by the Paying Agent to the payment of such principal or Redemption Price.

3. On each redemption date, other than a Sinking Fund Installment due date, the Trustee shall make available to the Paying Agent from moneys in the Redemption Account in the Applicable Debt Service Fund an amount equal in the aggregate to the Redemption Price of the Applicable Bonds to be redeemed on such redemption date, which moneys shall be applied by the Paying Agent to the payment of such Redemption Price.

#### **SECTION 5.07 Default Rate Debt Service Reserve Fund.**

1. Upon the occurrence of a Default Rate Debt Service Reserve Trigger Event with respect to the Series 202[ ] Financing Program WIFIA Bonds and any Series of Refunding Bonds issued in connection therewith, there shall be established by the Trustee the Default Rate Debt Service Reserve Fund and the Applicable Accounts and the Applicable Subaccounts therein as provided by the terms of Section 5.01(2) hereof. To the extent that the Trustee fails to timely establish such Default Rate Debt Service Reserve Fund upon the occurrence of a Default Rate Debt Service Reserve Trigger Event, the I-Bank shall undertake all appropriate and necessary action to ensure the timely performance by the Trustee of the provisions of Section 5.01(2) and this Section 5.07(1) relating to the establishment of the Default Rate Debt Service Reserve Fund; provided, however, that if the I-Bank fails to comply with such obligation, the Trustee shall accept direction from the USEPA (or a Federal Agency), as Holder of the Series 202[ ] Financing Program WIFIA Bonds. The Default Rate Debt Service Reserve Fund established with respect to the Series 202[ ] Financing Program WIFIA Bonds and any Series of Refunding Bonds issued in connection therewith shall secure and fund only the Default Rate Liability of the I-Bank with respect to such Series of Bonds. Pursuant to the terms hereof, the Default Rate Liability of the I-Bank with respect

to the Series 202[ ] Financing Program WIFIA Bonds and any Series of Refunding Bonds issued in connection therewith shall be incurred only upon the occurrence and continuation of a Payment Default or a Development Default and only while such Series of Bonds are held by USEPA or a Federal Agency.

2. Upon the occurrence of a Default Rate Debt Service Reserve Trigger Event with respect to the Series 202[ ] Financing Program WIFIA Bonds and any Series of Refunding Bonds issued in connection therewith, an amount equal to the Default Rate Debt Service Reserve Fund Requirement shall be deposited in the Default Rate Debt Service Reserve Fund as follows: (i) from State Bond Act Funds available to the I-Bank for such purpose, which funds are made available to the Trustee by the I-Bank for deposit by the Trustee in the I-Bank Contributions Account of the Default Rate Debt Service Reserve Fund as directed pursuant to a Certificate of an Authorized Officer of the I-Bank (including, without limitation, directions therein by the I-Bank with respect to the deposit thereof in the appropriate Subaccounts thereof), (ii) from late fee payments by a Borrower to the I-Bank pursuant to the provisions of Section 3.03(b) of such Borrower's Loan Agreement, which funds are made available to the Trustee by the I-Bank for deposit by the Trustee in the Late Fee Account of the Default Rate Debt Service Reserve Fund as directed pursuant to a Certificate of an Authorized Officer of the I-Bank, and/or (iii) to the extent that the funds made available to the Trustee by the I-Bank pursuant to the provisions of the preceding clauses (i) and (ii) hereof are insufficient to satisfy, in full, the Default Rate Debt Service Reserve Fund Requirement, from funds transferred by the Master Program Trustee to the Trustee pursuant to the terms and provisions of the Master Program Trust Agreement (including, specifically, pursuant to the written notice by the Trustee to the Master Program Trustee, pursuant to the provisions of the Master Program Trust Agreement, directing such transfer given the insufficiency of the funding provided pursuant to clause (i) and (ii) hereof), with any funds transferred by the Master Program Trustee to the Trustee for such purpose pursuant to the terms of the Master Program Trust Agreement deposited by the Trustee in the MPTA Account within the Default Rate Debt Service Reserve Fund, provided, however, that upon the failure of the Trustee to provide the written notice to the Master Program Trustee, as referenced above and as provided in the Master Program Trust Agreement, when required by the provisions hereof and, specifically, this clause (iii), the Holder of the Series 202[ ] Financing Program WIFIA Bonds and any Series of Refunding Bonds (only while such Series of Bonds are held by USEPA or a Federal Agency) may provide such written notice to the Master Program Trustee, including the information referenced in Section 8(f)(ii)(D)(1) and Section 8(f)(iii)(D)(1) of the Master Program Trust Agreement, with a copy thereof provided concurrently to the Trustee.

3. Moneys in the Default Rate Debt Service Reserve Fund, if any, shall be used solely and exclusively for the payment of the Default Rate Liability of the I-Bank with respect to the Series 202[ ] Financing Program WIFIA Bonds and any Series of Refunding Bonds issued in connection therewith that are held by USEPA or a Federal Agency, when due on an Interest Payment Date. Whenever the I-Bank shall notify the Trustee in writing, or whenever the Trustee shall determine (which determination may be made in reliance upon written notification from USEPA or a Federal Agency), that the I-Bank bears a Default Rate Liability with respect to the Series 202[ ] Financing Program WIFIA Bonds and any Series of Refunding Bonds issued in connection therewith, the Trustee shall transfer from the Default Rate Debt Service Reserve Fund on the Interest Payment Date the amount of such Default Rate Liability to the Interest Account in the Applicable Debt Service Fund with respect to the Series 202[ ] Financing Program WIFIA Bonds and any Series of Refunding Bonds issued in connection therewith, with such transfer by the Trustee from each of the Accounts and Subaccounts within the Default Rate Debt Service Reserve Fund made in a manner consistent with the provisions of Schedule III hereto.

4. Amounts on deposit in the Default Rate Debt Service Reserve Fund shall be: (a) held in trust and pledged solely for the benefit of USEPA and any Federal Agency that is the Holder of the Series 202[ ] Financing Program WIFIA Bonds and any Series of Refunding Bonds issued in connection therewith to secure the Default Rate Liability of the I-Bank due and owing with respect to such Bonds while



such Bonds are held by USEPA or any Federal Agency, and (b) applied only in accordance with the provisions of this Indenture in a manner consistent with the provisions of Schedule III hereto.

5. Upon (a) the cancellation of all Series 202[ ] Financing Program WIFIA Bonds and any Series of Refunding Bonds issued in connection therewith (as a result of the payment thereof in full upon maturity, defeasance or redemption thereof) or (b) the transfer of such Series of Bonds by USEPA or any Federal Agency to another Holder thereof that is not a Federal Agency, the Trustee shall transfer all amounts (i) in the I-Bank Contributions Account of the Default Rate Debt Service Reserve Fund, if any, to the I-Bank for application by the I-Bank in accordance with the Act and any other applicable law for any of the I-Bank's corporate purposes allowed thereby, (ii) in the Late Fee Account of the Default Rate Debt Service Reserve Fund, if any, to the I-Bank for application by the I-Bank in accordance with the Act and any other applicable law for any of the I-Bank's corporate purposes allowed thereby, and (iii) in the MPTA Account of the Default Rate Debt Service Reserve Fund, if any, to the I-Bank for application by the I-Bank as a contribution pursuant to the provisions of Section 8(g) of the Master Program Trust Agreement.

6. Whenever the Trustee determines that the amount of money in the Default Rate Debt Service Reserve Fund exceeds the Default Rate Debt Service Reserve Requirement on any valuation date, such excess money (i) in the I-Bank Contributions Account of the Default Rate Debt Service Reserve Fund, if any, shall be transferred to the I-Bank for application by the I-Bank in accordance with the Act and any other applicable law for any of the I-Bank's corporate purposes allowed thereby, (ii) in the Late Fee Account of the Default Rate Debt Service Reserve Fund, if any, shall be transferred to the I-Bank for application by the I-Bank in accordance with the Act and any other applicable law for any of the I-Bank's corporate purposes allowed thereby, and (iii) in the MPTA Account of the Default Rate Debt Service Reserve Fund, if any, shall be transferred to the I-Bank for application by the I-Bank as a contribution pursuant to the provisions of Section 8(g) of the Master Program Trust Agreement.

7. Investments of funds on deposit in the Default Rate Debt Service Reserve Fund shall be valued annually, at the fair market value thereof. Investments purchased with funds on deposit in the Default Rate Debt Service Reserve Fund shall have a term to maturity of not greater than the next Interest Payment Date.

**SECTION 5.08 General Fund.** On the first day of each Bond Year beginning September 1, 20[ ], the Trustee shall deposit in the SRF Account and non-SRF Account (and the Applicable Subaccounts therein), as applicable, of the Applicable General Fund on a Pro Rata Basis all moneys then remaining in the I-Bank Bond Loan Repayments Account within the Revenue Fund, except for those moneys identified as credits pursuant to Section 5.10 hereof to be transferred to the Applicable Interest Account on the second day of such Bond Year; provided, however, that (i) all transfers from the I-Bank Bond Loan Repayments Account within the Revenue Fund required pursuant to subsections (1), (2), (3) and (4) of Section 5.05 shall have been made, and (ii) all funds required to be on deposit in the Revenue Fund pursuant to Section 5.05(2) are on deposit in the Revenue Fund. Moneys, including Net Earnings thereon, on deposit in the Applicable General Fund may be applied by the I-Bank, upon written requisition from an Authorized Officer of the I-Bank to the Trustee, in accordance with the Act and, in the case of proceeds of the Series 202[ ] Financing Program Bonds, the Tax Certificate, for any of its corporate purposes. Such requisition shall state that the I-Bank is requesting such moneys pursuant to the provisions of this Section 5.08.

**SECTION 5.09 Moneys to Be Held in I-Bank.** All moneys required to be deposited with or paid to the Trustee or the Paying Agent for the account of any Fund or Account established pursuant to any provision of this Indenture for the Bonds in accordance with this Indenture, other than the Project Fund, the Operating Expense Fund and the Rebate Fund, shall be held by the Trustee or the Paying Agent, as the case may be, in trust for the Holders of the Bonds and shall constitute part of the Trust Estate while held by the Trustee or the Paying Agent; provided, however, that moneys deposited with and held by the Trustee or the

Paying Agent for the redemption of Bonds on or after the redemption date of such Bonds, or for the payment of the Redemption Price of or interest on Bonds on or after the date on which such amounts shall have become due, shall be held and applied solely for the redemption or payment of the Redemption Price of or the payment of the interest on such Bonds as and to the extent provided in Section 12.01(6) hereof; provided, further, that the Default Rate Debt Service Reserve Fund shall solely be available to pay Default Rate Debt Service with respect to the Series 202[ ] Financing Program WIFIA Bonds.

#### **SECTION 5.10 Investments.**

1. **Generally.** All moneys in any of the Funds and Accounts created pursuant to this Indenture, other than the Operating Expense Fund and the Accounts established therein (which shall be held by the I-Bank pursuant to the provisions of Section 5.01 hereof), shall be invested by the Trustee as directed by an Authorized Officer of the I-Bank in writing, subject to the further provisions of this Section. The Trustee may conclusively rely upon such written direction of an Authorized Officer of the I-Bank as to any and all investments and as to the compliance of any investments with the then current procurement and investment policies and procedures of the I-Bank. Moneys in the Operating Expense Fund (which shall be held by the I-Bank pursuant to the provisions of Section 5.01 hereof) shall be invested by the I-Bank in accordance with the provisions of this Section.

Moneys in all Funds and Accounts created pursuant to this Indenture shall be invested exclusively in Investment Securities, the principal of and interest on which are payable not later than the dates on which it is estimated that such moneys will be required hereunder; provided, however, that each Project Fund and the Project Loan Accounts established therein may be invested by the Trustee as 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 New Jersey State Treasurer is the custodian, in addition to investment thereof in Investment Securities.

Investment Securities acquired as an investment of moneys in any Fund or Account created pursuant to this Indenture shall be credited to such Fund or Account. For the purpose of determining the amount in any Fund or Account at any time in accordance with this Indenture, all Investment Securities credited to such Fund or Account shall be valued at the lesser of amortized cost (exclusive of accrued interest) or fair market value, except as otherwise provided with respect to the Default Rate Debt Service Reserve Fund pursuant to the provisions of Section 5.07(7) hereof.

The Trustee may act as principal or agent in the acquisition or disposition of any Investment Securities. The Trustee shall exercise its best efforts to sell at the best price obtainable, or present for redemption, any Investment Securities to the credit of any Fund or Account created pursuant to this Indenture, other than the Operating Expense Fund (and the respective Accounts therein), whenever it shall be necessary in order to provide moneys to meet any required payment, transfer, withdrawal or disbursement from such Fund or Account, and the Trustee shall not be liable for any loss resulting from such necessary sale so made of such Investment Securities.

2. Reserved.

3. **Net Earnings on all Funds and Accounts Subject to Transfer and Credit.** (i) All Net Earnings received in the first Bond Year from the investment of moneys in the Accounts and the SRF or non-SRF Subaccounts (and any Subaccounts therein), as applicable, of the Applicable Revenue Fund and in the SRF or non-SRF Subaccounts (and any Subaccounts therein) of the Interest Account, the Principal Account and the Redemption Account in the Applicable Debt Service Fund shall be deposited or retained in the SRF Subaccount and non-SRF Subaccount (and the Applicable Subaccounts therein), as applicable, of the Interest Account in the Applicable Debt Service Fund on September 2, 20[ ]; (ii) all Net Earnings

received from September 2 through and including March 1 in any Bond Year thereafter from the investment of moneys in any Fund, Account or Subaccount identified in clause (i), above, shall be deposited or retained in the SRF Subaccount and non-SRF Subaccount (and the Applicable Subaccounts therein), as applicable, of the Interest Account in the Applicable Debt Service Fund on March 2 of any such Bond Year; and (iii) all Net Earnings received from March 2 through and including September 1 in any Bond Year thereafter from the investment of moneys in any Fund, Account or Subaccount identified in clauses (i) and (ii), above, shall be deposited or retained in the SRF Subaccount and non-SRF Subaccount (and the Applicable Subaccounts therein), as applicable, of the Interest Account in the Applicable Debt Service Fund on September 2 of any such Bond Year.

4. **Specific Borrower Credits.** The Trustee, simultaneously with each transfer contemplated by Section 5.10(3) hereof, shall notify the I-Bank in writing of all such Net Earnings so transferred pursuant to Section 5.10(3) hereof. Such writings shall set forth the Net Earnings derived from each such Fund, Account or Subaccount identified in Section 5.10(3)(i), above. The I-Bank shall credit the Interest Portion of the immediately succeeding I-Bank Bond Loan Repayment due from a Borrower, and to the extent moneys are available therefor, the principal portion of such I-Bank Bond Loan Repayments, if any, with the Allocable Share of the Net Earnings, so transferred pursuant to Section 5.10(3) hereof, allocable to said Borrower and notify the Borrower and the Trustee of such credit. The Allocable Share of the Net Earnings allocable to a Borrower shall be the sum of said Borrower's share of the Net Earnings on a Pro Rata Basis derived in accordance with Section 5.10(3) hereof from each such Fund, Account or Subaccount identified in Section 5.10(3)(i), above, in any Bond Year commencing on or after September 1, 20[ ], which pro rata share shall be equal to the product of: (i) such Net Earnings so derived from the SRF or non-SRF Subaccounts and Accounts (and any Subaccounts therein) of such Applicable Funds or Accounts, as applicable, and (ii) said Borrower's Allocable Share.

To the extent that an Authorized Officer of the I-Bank advises the Trustee in writing (which writing may be via electronic mail) that such Authorized Officer of the I-Bank has determined that the aggregate Net Earnings derived in accordance with Section 5.10(3) hereof and allocable to any individual Borrower on a given Interest Payment Date, as calculated by the I-Bank pursuant to this subsection, are less than the lesser of (I) one-twelfth (1/12) of the I-Bank Bond Loan Repayments due from such Borrower during the immediately preceding Bond Year, and (II) \$1,000, such Net Earnings shall be retained in the SRF Subaccount and non-SRF Subaccount (and the Applicable Subaccounts therein), as applicable, of the Interest Account of the Applicable Debt Service Fund, unless directed otherwise by an Authorized Officer of the I-Bank, and shall be credited to the I-Bank Bond Loan Repayment of such Borrower in accordance with this paragraph on the next succeeding Interest Payment Date. Furthermore, to the extent that an Authorized Officer of the I-Bank advises the Trustee in writing (which writing may be via electronic mail), the calculation pursuant to this subsection by the I-Bank of the aggregate Net Earnings derived in accordance with Section 5.10(3) hereof and allocable to any individual Borrower on a given Interest Payment Date need not be performed and, in such case, such Net Earnings shall be retained in the SRF Subaccount and non-SRF Subaccount (and the Applicable Subaccounts therein), as applicable, of the Interest Account of the Applicable Debt Service Fund, unless directed otherwise by an Authorized Officer of the I-Bank, and shall be credited to the I-Bank Bond Loan Repayment of such Borrowers in accordance with this subsection on the next succeeding Interest Payment Date.

5. **Earnings on Funds and Accounts Not Subject to Transfer and Credit.** All Net Earnings from the investment of moneys in the Default Rate Debt Service Reserve Fund, the Applicable Project Fund, the Capitalized Interest Account within the Applicable Debt Service Fund, the Applicable General Fund, the Rebate Fund and the Operating Expense Fund (and each of the respective Accounts and Subaccounts therein) shall be retained in and treated as part of such respective Fund, Accounts and Subaccounts, and applied in accordance with the Sections of this Indenture governing such Funds, Accounts and Subaccounts.

6. **Rebate Fund for the Series 202[ ] Financing Program Bonds.** The I-Bank may withdraw and utilize earnings in any Series 202[ ] Financing Program Bonds Fund, Account or Subaccount, other than the Interest Account and the Principal Account (and the respective Subaccounts therein) in the Debt Service Fund therefor, 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 or any letter of instructions referred to in Section 8.06(2) hereof; provided, however, that to the extent any such moneys and investment 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 Series 202[ ] Financing Program Bonds General 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 Series 202[ ] Financing Program Bonds Funds, Accounts and/or Subaccounts and the amount of earnings to be withdrawn therefrom for the purposes of this Section 5.10(6), and the Trustee shall be entitled to rely upon each such Certificate in making payments to the I-Bank.

## ARTICLE VI

### LOANS

**SECTION 6.01 Terms and Conditions of Loans.** The I-Bank shall make Loans to Borrowers for the purpose of paying a portion of the Costs of the Borrowers' Projects from moneys available therefor in the Applicable Project Loan Accounts in the Applicable Project Fund, and shall enter into Loan Agreements, in the manner, on the terms and conditions and upon submission of the documents required by this Article VI, and not otherwise.

**SECTION 6.02 Form of Loan Agreement.** The Loan Agreements shall be substantially in the form as determined and approved by the I-Bank, with such changes therein as shall be approved by an Authorized Officer of the I-Bank, as evidenced by the execution thereof by such Authorized Officer of the I-Bank; provided, however, that the Loans and the Loan Agreements shall in any event conform in all material respects to the provisions of this Article VI.

**SECTION 6.03 Restrictions on Loans.** No Loan may be made to reimburse a Borrower for all or a portion of the Cost of a Borrower's Project, or to refinance indebtedness or reimburse the Borrower for the repayment of indebtedness previously incurred by such Borrower to finance all or a portion of the Cost of such Borrower's Project, unless the Borrower shall deliver to the I-Bank and the Trustee an opinion of Bond Counsel approved by an Authorized Officer of the I-Bank, in form and substance satisfactory to the Authorized Officer of the I-Bank, to the effect that such reimbursement or refinancing will not adversely affect the exclusion from gross income for federal income tax purposes of interest paid on the Tax-Exempt Bonds.

**SECTION 6.04 Loan Closing Submissions.** Prior to or at each Loan Closing of a Loan, the I-Bank and the Trustee shall receive the following documents from each Borrower that is receiving a Loan in order for such Borrower to remain included in the definition of "Borrower" (as set forth in Section 1.01(b) hereof) for all purposes of this Indenture, including, without limitation, receipt of the Loan:

(a) an opinion or opinions of the Borrower's Counsel substantially in the form set forth in Exhibit E to the Loan Agreement; provided, however, that an Authorized Officer of the I-Bank may permit variances in such opinion from the form or substance of such Exhibit E, if such variances are not to the material detriment of the interests of the Bondholders;

(b) the fully executed Loan Agreement of each Borrower, designating, among other things, the SRF status or the non-SRF status, as applicable, of the Project (as defined in such Loan Agreement) of the Borrower, as such status is determined by the State;

(c) the Borrower's bond evidencing and securing the payment obligations of the Borrower pursuant to such Loan Agreement, duly executed, authenticated and delivered by such Borrower, and assigned by the I-Bank to the Trustee;

(d) the opinion required by Section 6.03 hereof, if applicable;

(e) copies of the resolutions or ordinances of the governing body of the Borrower authorizing the execution and delivery of such Loan Agreement and Borrower bond, certified by an Authorized Officer of the Borrower;

(f) an opinion of Bond Counsel to the I-Bank that the Borrower's Project (as defined in its Loan Agreement) constitutes an "environmental infrastructure project" within the meaning of the Act and that the financing thereof by the I-Bank is permissible pursuant to the Act and Section 6.01 of this Indenture; and

(g) such other certificates, documents, opinions and information as the I-Bank or the Trustee may require, including, without limitation, such certifications of a Borrower as shall be required by the I-Bank in order for the I-Bank to satisfy its contractual obligations pursuant to the WIFIA Loan Agreement.

All opinions and certificates required pursuant to this Section shall be dated the date of the Loan Closing and all such opinions shall be addressed, at a minimum, to the I-Bank and the Trustee.

**SECTION 6.05 I-Bank Bond Loan Repayments.** With respect to the Loans made by the I-Bank from the proceeds of any Series of Bonds, the I-Bank shall establish I-Bank Bond Loan Repayments pursuant to the Applicable Loan Agreements in such amounts that, together with any amounts available and required to be treated as credits pursuant to this Indenture, shall be sufficient to pay the principal of, prepayment premium, if any, and interest on, such Series of Bonds as the same become due and payable.

**SECTION 6.06 [Continuing Disclosure.** Prior to each Loan Closing with respect to a Loan, the I-Bank, pursuant to the sole discretion of an Authorized Officer of the I-Bank, in consultation with Bond Counsel, general counsel and other appropriate advisors to the I-Bank, shall determine if any Borrower is a material "obligated person" within the meaning and for the purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission (the "SEC") pursuant to the Securities Exchange Act of 1934, as amended or supplemented, including any successor regulation or statute thereto ("Rule 15c2-12"), based upon the following criteria hereby established as the means of satisfying the meaning and purposes of Rule 15c2-12: Borrowers shall be considered to be material "obligated persons" if their remaining Fund Loan (unless defined in this Section 6.06, capitalized terms not defined in this Indenture and used in this Section 6.06 shall have the respective meanings ascribed to such terms in the Master Program Trust Agreement) repayments in all Coverage Providing Financing Programs, when aggregated with such Borrower's I-Bank Loan repayments, if any, in respect of the Bonds, exceed ten percent (10%) of the sum of (i) the aggregate of all remaining Fund Loan repayments from all Borrowers in all Coverage Providing Financing Programs and (ii) the aggregate of all remaining I-Bank Loan repayments from all Borrowers.

To the extent any Borrowers that have been determined to be material "obligated persons" within the meaning and for the purposes of Rule 15c2-12 have entered into Service Agreements with Underlying Government Units and if any such Underlying Government Units have entered into Service Agreements

with Indirect Underlying Government Units (as such terms are defined in the Loan Agreements) whereby annual charges or indirect annual charges, as the case may be, materially secure the I-Bank Bond Loan Repayments of any such Borrowers, any such Underlying Government Unit and Indirect Underlying Government Unit shall also be considered material “obligated persons” within the meaning and for the purposes of Rule 15c2-12.

Any Borrower determined to be a material “obligated person” based upon the criteria set forth herein shall be required to enter into a Continuing Disclosure Agreement, with a term as specified therein, by and among such Borrower, the I-Bank and the Trustee, substantially in the form attached as Exhibit H to such Borrower’s Loan Agreement, with such changes therein as shall be approved by the I-Bank, as evidenced by the execution thereof by an Authorized Officer of the I-Bank.

[The I-Bank hereby determines that it is not an “obligated person”. Nevertheless, the I-Bank hereby covenants to provide notice of Bond Disclosure Events (as defined in the Continuing Disclosure Agreement), if material, with respect to the Series 202[ ] Bonds to each Nationally Recognized Municipal Securities Information Repository recognized by the SEC or to the Municipal Securities Rulemaking Board and the State Information Depository, if any, recognized by the SEC.]

The I-Bank hereby determines that each of the Financing Program relating to [the Series 202[ ] Financing Program Bonds and the Financing Program relating to the Series 202[ ] Financing Program WIFIA Bonds] is an “obligated person”, and shall be required to enter into a Continuing Disclosure Agreement, with a term as specified therein, by and among the I-Bank, the Trustee and the Master Program Trustee, substantially in the form attached hereto as Exhibit B, with such changes therein as shall be approved by the I-Bank, as evidenced by the execution thereof by an Authorized Officer of the I-Bank.

Notwithstanding any provision to the contrary in Article XI hereof, the I-Bank may amend or supplement this Section 6.06, as it may deem necessary, in order to comply with any amendment, supplement, modification, termination or other change to Rule 15c2-12.]

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## ARTICLE VII

### ADDITIONAL PROVISIONS RELATING TO LOANS

#### SECTION 7.01     Reserved.

**SECTION 7.02     Defaults.** The Trustee shall notify the I-Bank of its failure to receive any I-Bank Bond Loan Repayment, if any, of a Borrower due pursuant to any Loan Agreement and of any other default or “Event of Default,” pursuant to and as defined in such Loan Agreement, that is known to the Trustee. The Trustee shall notify USEPA or any Federal Agency that is the Holder of the Series 202[ ] Financing Program WIFIA Bonds (or of any Series of Refunding Bonds issued in connection therewith) of the occurrence of an “Event of Default,” pursuant to and as defined in any Loan Agreement, that is known to the Trustee.

The Trustee shall diligently enforce, and take all reasonable steps, actions and proceedings necessary for the enforcement of, all terms and conditions of all Loan Agreements, including (without limitation) the prompt payment of all I-Bank Bond Loan Repayments and all other amounts due the I-Bank, and the observance and performance of all duties, covenants, obligations and agreements, thereunder; provided, however, that the Trustee shall not accelerate the payment of amounts due under any Loan Agreement following any event of default thereunder (other than any event of default which shall automatically accelerate such payment under the Loan Agreements), unless the Trustee shall have given the I-Bank thirty (30) days written notice of the occurrence of such event of default and shall have afforded the I-Bank the opportunity to cause such event of default to be cured during the 30-day period following receipt by the I-Bank of such notice.

The Trustee shall not release the duties, covenants, obligations or agreements of any Borrower under any Loan Agreement and shall at all times, to the extent permitted by law, defend, enforce, preserve and protect the rights and privileges of the I-Bank and the Holders under or with respect to each Loan Agreement; provided, however, that this provision shall not be construed to prevent the Trustee (with the written consent of the I-Bank) from settling a default under any Loan Agreement on such terms as the Trustee shall determine to be in the best interests of the I-Bank and the Holders. The I-Bank hereby appoints the Trustee its agent and attorney-in-fact for purposes of enforcing all rights, title and interests of the I-Bank under the Loan Agreements, except for the enforcement of all rights, title and interests of the I-Bank relating to the payment by the Borrower of the Administrative Fee and otherwise, subject to the provisions of this Section.

**SECTION 7.03     Termination of Loan Agreements.** Upon the irrevocable payment in full of all amounts due under a Loan Agreement, the I-Bank shall cancel the obligation of the Borrower evidenced by such Loan Agreement and terminate and release all security interests and liens created under such Loan Agreement and the I-Bank and the Trustee shall take any other action required of the I-Bank or the Trustee in such Loan Agreement in connection with such cancellation, termination and release, including (without limitation) the execution of all relevant documents in connection with such actions.

**SECTION 7.04     Loan Files.** After each Loan Closing, the Trustee shall retain all the documents received by it pursuant to Article VI hereof in connection with such Loan Closing or in connection with the Loan made at such Loan Closing in a file pertaining to such Loan, to which file the Trustee shall from time to time add (i) all records and other documents pertaining to disbursements of amounts to the Borrower under the Loan Agreement and to Loan Repayments and other amounts received by the Trustee under such Loan Agreement and (ii) all communications from or received by the Trustee with respect to such Loan. Such file shall be kept at the Principal Office of the Trustee and shall be available for inspection by the I-Bank and its agents at reasonable times and under reasonable circumstances.

**SECTION 7.05 Trustee's Obligations.** The Trustee shall observe and perform all duties, covenants, obligations and agreements of the I-Bank under each Loan Agreement to the extent specified herein.

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## ARTICLE VIII

### GENERAL COVENANTS

**SECTION 8.01 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 this Indenture, a Borrower's State Loan Agreement or a Borrower's Loan Agreement.

The Series 202[ ] Financing Program WIFIA Bonds shall evidence and secure that portion of the Outstanding WIFIA Loan Balance (as such term is defined in the WIFIA Loan Agreement) corresponding to the disbursement under the WIFIA Loan Agreement associated with the Series 202[ ] Financing Program WIFIA Bonds and such portion of the Outstanding WIFIA Loan Balance shall equal, at any given time, the Outstanding principal amount of the Series 202[ ] Financing Program WIFIA Bonds.

**SECTION 8.02 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 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, the WIFIA Master Program Trust Agreement and the Master Program Trust Agreement, 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 8.03 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 hereunder for the security of Holders of the Bonds as provided hereby. For purposes of elaboration upon the preceding sentence, the I-Bank shall not create or cause to be created and shall not suffer to exist, any lien, encumbrance or charge upon the Default Rate Debt Service Reserve Account (or any amounts on deposit therein) except the pledge, lien and charge created hereunder for the security of USEPA or any Federal Agency as the Holder of the Series 202[ ] Financing Program WIFIA Bonds or any Series of Refunding Bonds issued in connection therewith. 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.

So long as Bonds of any Series shall be Outstanding, the I-Bank shall not issue any bonds, notes or other evidences of indebtedness, other than such Bonds, secured by any pledge of or other lien or charge on the Trust Estate. Notwithstanding the foregoing, the I-Bank may issue future series of bonds, notes or other evidences of indebtedness that have an interest in either or both of the WIFIA Master Program Trust Account and/or the Master Program Trust Account to the extent set forth in, respectively, the WIFIA Master Program Trust Agreement and Master Program Trust Agreement. Nothing in this Indenture is intended to or shall affect the right of the I-Bank to issue bonds, notes and other obligations pursuant to other resolutions or indentures for any of its other purposes.

**SECTION 8.04 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 WIFIA Master Program Trustee pursuant to the provisions of the WIFIA Master Program Trust Agreement; (ii) a statement of all funds and accounts (including investments thereof) held by the Master Program Trustee pursuant to the provisions of the Master Program Trust Agreement; and (iii) a statement of the Revenues, Administrative Fees and State 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 8.05 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 this 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 8.06 Tax Rebate.**

1. In connection with the issuance of any Series of Tax-Exempt Bonds, an Authorized Officer of the I-Bank is authorized to execute, on behalf of the I-Bank, a Certificate as to arbitrage [(including, without limitation, the Tax Certificate with respect to the Series 202[ ] Financing Program Bonds)], a letter of instructions as to certain requirements of the Code, or any similar documents relating to the characterization of such Series of Tax-Exempt Bonds as not being “arbitrage bonds” within the meaning of Sections 103(a)(2) and 148 of the Code.

2. With respect to any such Series of Tax-Exempt Bonds, any amounts required to be set aside for rebate or to satisfy a yield restriction requirement to the Internal Revenue Service pursuant to any letter

of instructions or Certificate as to arbitrage [(including, without limitation, the Tax Certificate with respect to the Series 202[ ] Financing Program Bonds)] shall be considered a loss for purposes of determining “Net Earnings” pursuant to Section 5.10 hereof.

**SECTION 8.07 Application of Loan Prepayments.** Upon the prepayment, in whole or in part, of any Loan, the I-Bank shall elect to apply such prepayment proceeds either (i) to the redemption of Bonds on the next succeeding call date in accordance with, as applicable, Section 2.03(5) hereof, Section 2.03A(5) hereof, Article IV hereof, and/or the Applicable Supplemental Indenture, or (ii) to the payment of Bonds in accordance with Section 12.01 and/or the Applicable Supplemental Indenture. The I-Bank may only consent to Loan prepayments pursuant to the Loan Agreements if it simultaneously delivers to the Trustee (i) a certificate of an independent public accountant demonstrating that the aggregate I-Bank Bond Loan Repayments due pursuant to the Loan Agreements after such prepayment shall be sufficient to pay when due the principal of and interest on all Bonds outstanding after giving effect to the I-Bank’s election required in the immediately preceding sentence, and (ii) irrevocable instructions to effectuate such election regarding the application of prepayment proceeds. The I-Bank shall give notice to each Rating Agency of any such Loan prepayments and its application of the proceeds thereof. The posting of any such notice to the Electronic Municipal Market Access system of the Municipal Securities Rulemaking Board shall constitute notice to each Rating Agency for purposes of this paragraph.

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## ARTICLE IX

### DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND BONDHOLDERS

**SECTION 9.01 Defaults; Events of Default.** If any of the following events occurs, it is hereby defined as and declared to be and to constitute an “Event of Default” for the Bonds of all Series then Outstanding:

- (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) if (i) the I-Bank shall be adjudicated a bankrupt or become subject to an order for relief under federal bankruptcy law, (ii) the I-Bank shall institute a proceeding seeking an order for relief under federal bankruptcy law or seeking to be adjudicated a bankrupt or insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or all of its debts under New Jersey bankruptcy or insolvency law, (iii) with the consent of the I-Bank, there shall be appointed a receiver, liquidator or similar official for the I-Bank under federal bankruptcy law or under New Jersey bankruptcy or insolvency law, or (iv) without the application, approval or consent of the I-Bank, a receiver, trustee, liquidator or similar official shall be appointed for the I-Bank under federal bankruptcy law or under New Jersey bankruptcy or insolvency law, or a proceeding described in clause (ii) above shall be instituted against the I-Bank and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of sixty (60) consecutive days; or
- (d) if (i) the I-Bank shall make an assignment for the benefit of creditors, (ii) the I-Bank shall apply for or seek the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its property, (iii) the I-Bank shall fail to file an answer or other pleading denying the material allegations of any proceeding filed against it described under clause (ii) of paragraph (c) of this Section, (iv) the I-Bank shall take any action to authorize or implement any of the actions set forth in paragraph (c) or (d) of this Section, (v) the I-Bank shall fail to contest in good faith any appointment or proceeding described in paragraph (c) or (d) of this Section or (vi) without the application, or approval or consent of the I-Bank, a receiver, trustee, examiner, liquidator or similar official shall be appointed for any substantial part of the I-Bank’s property and such appointment shall continue undischarged or such proceedings shall continue undismissed or unstayed for a period of sixty (60) consecutive days; or
- (e) the I-Bank shall default in the performance or observance of any other of the duties, covenants, obligations, agreements or conditions on the part of the I-Bank to be performed or observed pursuant to this Indenture or the Bonds of each Series, which default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall be given to the I-Bank by the Trustee or the Bondholders in accordance with Section 9.10 hereof.

**SECTION 9.02 Acceleration of Bonds; Remedies.** If an Event of Default described in Section 9.01 shall occur for any Series of Bonds, the Trustee may, and at the written request of the Holders of a majority in aggregate principal amount of the Outstanding Bonds shall, by telephonic notice to the I-Bank (promptly confirmed in writing) declare the principal of all Bonds then Outstanding to be due and payable; provided, however, that before making such declaration, the Trustee shall give thirty (30) days’ notice to the I-Bank. Upon any such declaration, the Trustee shall forthwith give notice thereof to the Borrowers and the Paying Agents.

At any time after the principal of the Bonds shall have been so declared to be due and payable and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such Event of Default, or before the completion of the enforcement of any other remedy pursuant to this Indenture, the Trustee, by written notice to the I-Bank, may annul such declaration and its consequences if: (i) moneys shall have accumulated in the Interest Account and the Principal Account in the Applicable Debt Service Fund sufficient to pay all arrears of interest, if any, upon all of the Outstanding Bonds (except the interest accrued on such Bonds since the last Interest Payment Date) and the principal then due on all Bonds (except the principal on any such Bonds due solely as a result of any such declaration of acceleration); (ii) moneys shall have accumulated and be available sufficient to pay the charges, compensation, expenses, disbursements, advances and liabilities of the Trustee; and (iii) every other default known to the Trustee in the observance or performance of any duty, covenant, obligation, condition or agreement contained in the Bonds or in this Indenture, shall have been remedied to the satisfaction of the Trustee; provided, however, that such declaration may be annulled only with the written consent of the Holders of a majority in aggregate principal amount of the Bonds Outstanding and not then due by their terms. No such annulment shall extend to or affect any subsequent default or impair any right consequent thereon.

Upon the occurrence of an Event of Default, the Trustee shall also have the following rights and remedies:

(a) the Trustee shall, at the direction of the Holders of a majority in aggregate principal amount of the Outstanding Bonds, and (subject to Section 9.11) upon being indemnified to its reasonable satisfaction by the Holders of the Bonds, pursue any available remedy at law or in equity or by statute to enforce the payment of the principal of and interest on the Bonds then Outstanding, including (without limitation) the right (to the extent legally enforceable) to, by written notice to the I-Bank, declare the principal of the bonds then outstanding to be due and payable of any Borrower whose actions have directly or indirectly caused any such Event of Default and including the enforcement of any other rights of the I-Bank or the Trustee under the Loan Agreements;

(b) the Trustee by action or suit in equity may require the I-Bank to account as if it were the trustee of an express trust for the Holders of Bonds and may take such action with respect to the Loan Agreements as the Trustee deems necessary or appropriate and in the best interest of the Holders of Bonds, subject to the terms of such Loan Agreements; and

(c) upon the filing of a suit or other commencement of judicial proceedings to enforce any rights of the Trustee and of the Holders of Bonds pursuant to this Indenture, the Trustee will be entitled as a matter of right to the appointment of a receiver or receivers of the Trust Estate and the issues, earnings, income, products and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

If an Event of Default shall have occurred with respect to any Bonds, and if requested so to do by the Holders of a majority in principal amount of the Bonds then Outstanding, and upon being indemnified to its reasonable satisfaction therefor by such Holders, the Trustee shall be obligated to exercise such one or more of the rights, remedies and powers conferred by this Section as the Trustee shall deem most expedient in the interests of the Holders of Bonds.

No right or remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Holders of Bonds) is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to Trustee or to such Holders hereunder or now or hereafter existing at law or in equity or by statute other than pursuant to the Act. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

No waiver of any Event of Default hereunder, whether by the Trustee or by the Holders of any Bonds in default, shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

**SECTION 9.03 Right of Holders of a Series of Bonds to Direct Proceedings.** Anything in this Indenture to the contrary notwithstanding, but subject to Section 9.07 hereof, the Holders of a majority in aggregate principal amount of Bonds in default then Outstanding shall have the right at any time during the continuance of an Event of Default of such Bonds, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided, however, that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture.

**SECTION 9.04 Reserved.**

**SECTION 9.05 Application of Moneys.** All moneys received by the Trustee pursuant to any right or remedy given or action taken under the provisions of this Article upon any acceleration of the due date for the payment of the principal of and interest on the Bonds in default, including, without limitation, moneys received by virtue of action taken under provisions of any Loan Agreement, shall, after the payment, in full, of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee (including reasonable attorney fees) and any other moneys owed to the Trustee in connection with such Bonds hereunder, be applied, first, to the payment of the interest then due and unpaid upon the Bonds in default and, second, to the payment of the principal then due and unpaid upon the Bonds in default, to the persons entitled thereto, without any discrimination or privilege, in each case on a Pro Rata Basis among the Bonds in default.

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 for the amount of such moneys available for application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date unless the Trustee shall deem another date more suitable) upon which such application is to be made and upon such date and upon such application interest on the amounts of principal paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date.

**SECTION 9.06 Remedies Vested in Trustee.** All rights of action (including, without limitation, the right to file proofs of claims) pursuant to this Indenture or under any of the Bonds in default may be enforced by the Trustee without possession of any of the Bonds or the production thereof in any trial or other proceeding related thereto and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee for the equal and ratable benefit of the Holders of all the Outstanding Bonds without the necessity of joining as plaintiffs or defendants any Holders of such Bonds; provided, that if the Trustee fails or refuses to file a proof of claim with respect to any Holder following reasonable notice, such Holder may file a proof of its claim.

**SECTION 9.07 Rights and Remedies of Holders of Bonds.** No Holder of Bonds then Outstanding in default 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 owners of a majority in aggregate principal amount of the Bonds 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) subject to Section 9.11, the Holders 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 shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by his or their action or to enforce any right hereunder 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 and ratable benefit of the Holders of all Bonds then Outstanding; provided, however, that nothing contained in this Indenture shall affect or impair the right of the Holder of any Bond to enforce the payment of the principal or Redemption Price of and interest on such Bond at and after the maturity thereof, or the obligation of the I-Bank to pay the principal or Redemption Price of and interest on each of the Bonds issued hereunder to the respective Holders thereof at the time and place, from the source and in the manner expressed in the Bonds and in this Indenture and the Applicable Supplemental Indenture.

**SECTION 9.08 Termination of Proceedings.** In case the Trustee or a Holder of a Bond in default shall have proceeded to enforce any right pursuant to this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee or such Holder, then and in every such case the I-Bank, the Trustee and the Holders of Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Trustee and the Holders shall continue as if no such proceedings have been taken.

**SECTION 9.09 Waivers of Events of Default.** The Trustee may and, upon the written request of the Holders of not less than a majority in aggregate principal amount of all Bonds in default then Outstanding, shall waive any Event of Default which in its opinion shall have been remedied before the completion of the enforcement of any remedy pursuant to this Indenture; but no such waiver shall extend to any subsequent or other Event of Default, or impair any rights consequent thereon.

**SECTION 9.10 Notice of Certain Defaults; Opportunity of I-Bank to Cure Defaults.** Anything herein to the contrary notwithstanding, no Default under Section 9.01(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 Bonds 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.

**SECTION 9.11 No Indemnification by EPA.** In any circumstance in which USEPA or any Federal Agency, as Holder of the Series 202[ ] Financing Program WIFIA Bonds (or any Series of Refunding Bonds issued in connection therewith), would otherwise be required to indemnify the Trustee pursuant to the terms of this Indenture, the I-Bank shall instead reimburse the Trustee for any and all loss, cost, charge, expense (including legal fees), judgment or liability incurred by the Trustee, acting in good faith and without negligence, gross negligence or misconduct (subject to Section 10.05) and the Trustee shall not refuse to take any action or follow any instruction as a result of the I-Bank being obligated to reimburse the Trustee in lieu of USEPA or any Federal Agency.

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## **ARTICLE X**

### **FIDUCIARIES**

**SECTION 10.01 Appointments, Duties, Immunities and Liabilities of Trustee.** The Trustee is hereby appointed and does hereby accept and agree to execute the trusts created pursuant to this Indenture and all other agreements with the I-Bank, including, without limitation, the WIFIA Master Program Trust Agreement and the Master Program Trust Agreement, but only upon the additional terms set forth in this Article, to all of which the Bondholders agree by their acceptance of delivery of any of the Bonds. The obligations and duties of the Trustee shall be determined solely by reference to this Indenture and all other agreements with the I-Bank, including, without limitation, the WIFIA Master Program Trust Agreement and the Master Program Trust Agreement.

#### **SECTION 10.02 Paying Agents; Appointments.**

1. The Trustee is hereby appointed Paying Agent and shall also act as registrar for the Bonds. The I-Bank shall appoint one or more Paying Agents for the Bonds of each additional Series, and may at any time or from time to time appoint one or more other Paying Agents having the qualifications set forth in Section 10.13 for a successor Paying Agent. There shall be no limitation upon the ability of the I-Bank to appoint the Trustee to serve as a Paying Agent, provided that the Trustee otherwise satisfies the qualifications set forth herein (including, without limitation and as applicable, the qualifications set forth in Section 10.13 for a successor Paying Agent) that are applicable to a Paying Agent.

2. The Trustee hereby accepts its appointment as Paying Agent and as registrar for the Bonds.

3. Unless otherwise provided, the principal corporate trust offices of the Paying Agents are designated as the respective offices or agencies of the I-Bank for the payment of the interest on and principal or Redemption Price of the Bonds.

4. The I-Bank may enter into agreements with any Paying Agent providing for the payment to the I-Bank of amounts in respect of interest earned on moneys held by such Paying Agent for the payment of principal or Redemption Price of and interest on Bonds. Any such payments to the I-Bank shall be deposited in the I-Bank Bond Loan Repayments Account within the Revenue Fund and applied as Revenues.

#### **SECTION 10.03 Responsibilities of Fiduciaries.**

1. 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 (subject to Section 9.11) properly indemnified to its satisfaction by the Holders of the Outstanding Bonds. Subject to the provisions of subsection 2 of this Section 10.03, no Fiduciary shall be liable in connection with the observance and performance of its duties and obligations hereunder except for its own negligence or misconduct.

2. 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 man would exercise or use under the circumstances in the conduct of his 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 10.03.

#### **SECTION 10.04 Evidence Upon Which Fiduciaries May Act.**

1. 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.

2. 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.

3. 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 10.05 Compensation.** 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 12.01, 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 any Project Loan Account in either Project Fund. Subject to the provisions of Section 10.03, the I-Bank further agrees to reimburse each Fiduciary 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 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 this Indenture or undertaking any transaction contemplated by this 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.*

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.

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 10.05.

The reimbursement obligation provided in this Section 10.05 does not apply or extend to any indemnification given by a Fiduciary to any other person.

**SECTION 10.06 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 10.07 Resignation of Trustee.** The Trustee may at any time resign and be discharged of the duties and obligations created by this Indenture by giving not less than one hundred twenty (120) days' written notice to the I-Bank, and mailing notice thereof to the Holders of the Bonds then Outstanding, specifying the date when such resignation shall take effect, and such resignation shall take effect upon the day specified in such notice unless previously a successor shall have been appointed by the I-Bank or the Bondholders as provided in Section 10.09, in which event such resignation shall take effect immediately on the appointment of such successor, or unless a successor shall not have been appointed by the I-Bank or the Bondholders as provided in Section 10.09 on that date, in which event such resignation shall not take effect until a successor is appointed.

**SECTION 10.08 Removal of Trustee.** The Trustee may be removed at any time: (i) by an instrument or concurrent instruments in writing, filed with the Trustee, and signed by the Holders of a majority in principal amount of the Bonds then Outstanding or their attorneys-in-fact duly authorized, excluding any Bonds held by or for the account of the I-Bank, (ii) so long as no Event of Default, or any event which, with notice or passage of time, or both, would become an Event of Default, shall have occurred and be continuing, for just cause by a resolution of the I-Bank filed with the Trustee, (iii) upon a determination by the I-Bank, in its sole discretion, that the compensation charged by the Trustee is excessive for the duties, obligations and other services to be performed by the Trustee pursuant to this Indenture, such determination by the I-Bank to be established by a resolution adopted by the I-Bank and filed with the Trustee no less than 30 days prior to the effective date of such termination, or (iv) for any reason to be determined by the I-Bank, in its sole discretion, and without any requirement that just cause be demonstrated, such determination by the I-Bank to be established by a resolution adopted by the I-Bank and filed with the Trustee no less than 30 days prior to the effective date of such termination, provided, however, that the provisions of this clause (iv) shall not be implemented by the I-Bank more frequently than once every fifth year. Notwithstanding any other provision in this Article X, no removal of the Trustee shall take effect until a successor shall be appointed pursuant to the provisions of Section 10.09.

**SECTION 10.09 Appointment of Successor Trustee.**

1. In case at any time the Trustee shall resign or shall be removed 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, a successor may be appointed by the I-Bank by a duly executed written instrument signed by an Authorized Officer of the I-Bank, but if the I-Bank does not appoint a successor Trustee within forty-five (45) days then by the Holders of a majority in principal amount of the 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 such successor Trustee, notification thereof being given to the I-Bank and the predecessor Trustee. After such appointment of a successor Trustee, the I-Bank shall mail notice of any such appointment made by it or the Bondholders to the Holders of the Bonds then Outstanding.

2. If in a proper case no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section within forty-five (45) days after the Trustee shall have given to the I-Bank written notice as provided in Section 10.07 or after a vacancy in the office of the Trustee shall have occurred by reason of its inability to act, the Trustee or the Holder of any Bond may apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Trustee.

3. Any Trustee appointed under the provisions of this Section in succession to the Trustee shall be a bank or trust company or national banking association in good standing, qualified to do business in the State of New Jersey (to the extent such requirement is applicable to such Trustee), duly authorized to exercise trust powers, subject to examination by federal or state authority, having capital stock and surplus aggregating at least \$50,000,000 if there be such a bank or trust company or national banking association 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 Indenture.

**SECTION 10.10 Transfer of Rights and Property to Successor Trustee.** Any successor Trustee appointed pursuant to this Indenture shall execute, acknowledge and deliver to its predecessor Trustee, and also to the I-Bank, an instrument accepting such appointment, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of such predecessor Trustee, with like effect as if originally named as Trustee; but the Trustee ceasing to act shall nevertheless, on the written request of the I-Bank, or of the successor Trustee, execute, acknowledge and deliver such instrument 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 Trustee all the right, title and interest of the predecessor Trustee in and to any property held by it pursuant to this Indenture, and shall pay over, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Should any deed, conveyance or instrument in writing from the I-Bank be required by such successor Trustee for more fully and certainly vesting in and confirming to such successor Trustee any such estates, rights, powers and duties, any and all such deeds, conveyances and instruments in writing shall, on request, and so far as may be authorized by law, be executed, acknowledged and delivered by the I-Bank. Any such successor Trustee shall promptly notify the Paying Agents of its appointment as Trustee.

**SECTION 10.11 Merger or Consolidation.** Any company into which any Fiduciary may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which any Fiduciary may sell or transfer all or substantially all of its corporate trust business; provided, such company (i) shall be a bank or trust company organized under the laws of any state of the United States or a national banking association and (ii) shall be authorized by law to perform all the duties imposed upon it by this Indenture, shall be the

successor to such Fiduciary without the execution or filing of any paper or the performance of any further act.

**SECTION 10.12 Adoption of Authentication.** In case any of the Bonds contemplated to be issued pursuant to this Indenture shall have been authenticated but not delivered, any successor Trustee may adopt the certificate of authentication of any predecessor Trustee so authenticating such Bonds and deliver such Bonds so authenticated; and in case any of the said Bonds shall not have been authenticated, any successor Trustee may authenticate such Bonds in the name of the predecessor Trustee, or in the name of the successor Trustee, and in all such cases such certificate shall have the full force which it is anywhere in said Bonds or in this Indenture provided that the certificate of the Trustee shall have.

**SECTION 10.13 Resignation or Removal of Paying Agent; Appointment of Successor.**

1. Any Paying Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least one hundred twenty (120) days written notice to the I-Bank, the Trustee and the other Paying Agents. Any Paying Agent may be removed at any time by an instrument filed with such Paying Agent and the Trustee and signed by an Authorized Officer of the I-Bank. Any successor Paying Agent shall be appointed by the I-Bank with the written approval of the Trustee and shall be a bank or trust company organized under the laws of any state of the United States or a national banking association, having capital stock and surplus aggregating at least \$100,000,000, and willing and able to accept the office on reasonable and customary terms and authorized by law to perform all duties imposed upon it by this Indenture.

2. 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 such Paying Agent.

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## ARTICLE XI

### AMENDMENTS

**SECTION 11.01 Supplemental Indentures Effective Upon Notice to Bondholders.** For any one or more of the following purposes and at any time or from time to time, the I-Bank and the Trustee may enter into a Supplemental Indenture, which, upon the notice to Bondholders, shall be fully effective in accordance with its terms:

(a) To close this Indenture against, or provide limitations and restrictions contained in Indenture on, the authentication and delivery of Bonds;

(b) To add to the duties, covenants, obligations and agreements of the I-Bank in this Indenture, other duties, covenants, obligations and agreements to be observed and performed by the I-Bank which are not contrary to or inconsistent with this Indenture as theretofore in effect;

(c) To add to the limitations and restrictions in this Indenture, other limitations and restrictions to be observed by the I-Bank which are not contrary to or inconsistent with this Indenture as theretofore in effect;

(d) To authorize Refunding Bonds of a Series and, in connection therewith, specify and determine the matters and things referred to in Article II, and also any other matters and things relative to such Bonds including whether to issue Bonds in book entry forms, which are not contrary to or inconsistent with this Indenture as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination contained in Article II at any time prior to the first authentication and delivery of such Bonds;

(e) To confirm as further assurance, any security interest, pledge or assignment pursuant to this Indenture, and the subjection of the Revenues or of any other moneys, securities or funds to any security interest, pledge or assignment created or to be created by this Indenture;

(f) To modify any of the provisions of this Indenture in any other respect whatever, provided that (i) such modification shall be, and be expressed to be, effective only after all Bonds of each Series Outstanding at the date of the adoption of such Supplemental Indenture shall cease to be Outstanding, and (ii) such Supplemental Indenture 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;

(g) To modify any of the provisions of this Indenture in any respect provided that the modifications affect only Bonds issued subsequent to the date of such modifications; or

(h) To comply with the provisions of any federal or state securities law, including, without limitation, the Trust Indenture Act of 1939, as amended, or to comply with Section 103 of the Code, as amended, replaced or substituted.

If the Supplemental Indenture entered by the I-Bank pursuant to this Section materially increases the duties and responsibilities of the Trustee hereunder, the I-Bank shall reasonably compensate the Trustee for such materially increased duties and responsibilities.

**SECTION 11.02 Supplemental Indentures Effective Upon Filing of Opinion of Bond Counsel.** For any one or more of the following purposes and at any time or from time to time, the I-Bank

and the Trustee may enter into a Supplemental Indenture, which, upon (i) the provision of notice to Bondholders and (ii) the filing with the I-Bank and the Trustee of an opinion of Bond Counsel to the effect that such Supplemental Indenture will not adversely affect the exclusion from gross income of the interest on the Tax-Exempt Bonds for federal income tax purposes, shall be fully effective in accordance with its terms:

(a) To cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provisions in this Indenture;

(b) To insert such provisions clarifying matters or questions arising pursuant to this Indenture as are necessary or desirable and are not contrary to or inconsistent with this Indenture as theretofore in effect;

(c) In connection with the appointment by the I-Bank of a fiduciary other than the Trustee to perform any of the duties and/or services to be performed by the Trustee pursuant to Section 5.04 hereof, to the extent such modification or amendment of this Indenture which will not have a material adverse effect on the interests of Bondholders; or

(d) To make any other modification or amendment of this Indenture which will not have a material adverse effect on the interests of Bondholders.

In making any determination under this Section 11.02, the Trustee may conclusively rely upon an opinion of Bond Counsel.

**SECTION 11.03 Supplemental Indenture Effective With Consent of Bondholders.** At any time or from time to time, the I-Bank and the Trustee may enter into a Supplemental Indenture subject to consent by the Bondholders in accordance with and subject to the provisions of Sections 11.06 and 11.07, which Supplemental Indenture, upon (i) compliance with the provisions of said Sections 11.06 and 11.07 and (ii) the filing with the I-Bank and the Trustee of an opinion of Bond Counsel to the effect that such Supplemental Indenture will not adversely affect the exclusion from gross income of the interest on the Tax-Exempt Bonds for federal income tax purposes, shall become fully effective in accordance with its terms as provided in said Section 11.07. Provided, however, that, any Supplemental Indenture which by its terms only affects one or more Series of Bonds may be adopted subject to the consent of the Bondholders of the Series or Series of Bonds so affected.

#### **SECTION 11.04 General Provisions.**

1. Except as provided in clause 4 of Section 2.03A, this Indenture shall not be modified or amended in any respect except by Supplemental Indenture as provided in and in accordance with and subject to the provisions of this Article XI. Nothing contained in this Article XI shall affect or limit the right or obligation of the I-Bank to adopt, make, do, execute, acknowledge or deliver any resolution, act or other instrument pursuant to the provisions of this Indenture or the right or obligation of the I-Bank to execute and deliver to any Trustee any instrument which elsewhere in this Indenture it is provided shall be delivered to said Trustee.

2. Any Supplemental Indenture referred to and permitted or authorized by Section 11.01 or 11.02 may be adopted by the I-Bank without the consent of any of the Bondholders, but shall become effective only on the conditions, to the extent and at the time provided in said Sections, respectively. The copy of every Supplemental Indenture when filed with the Trustee shall be accompanied by an opinion of Bond Counsel stating 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 in accordance with its terms.

3. The Trustee is hereby authorized to accept the delivery of a certified copy of any Supplemental Indenture referred to and permitted or authorized by Sections 11.01, 11.02 or 11.03 and to make all further agreements and stipulations which may be therein contained, and the Trustee, in taking such action, shall be fully protected in relying on an opinion of Bond Counsel that such Supplemental Indenture is authorized or permitted by the provisions of this Indenture.

4. No Supplemental Indenture shall change or modify any of the rights or obligations of any Fiduciary without their written assent thereto.

**SECTION 11.05 Mailing.** Any provision in this Article for 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 his address, if any, appearing upon the registry books of the I-Bank.

**SECTION 11.06 Powers of Amendment by Supplemental Indenture.** Unless otherwise permitted under Section 11.01 or Section 11.02, any modification or amendment of this 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 Bonds Outstanding at the time such consent is given, (ii) in case less than all of the several Series of 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 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 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 Bonds of any specified like Series and maturity remain Outstanding the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section. 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 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.

**SECTION 11.07 Consent of Bondholders.** The I-Bank may at any time adopt a Supplemental Indenture making a modification or amendment permitted by the provisions of Section 11.06 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 (a) the written consents of the Holders of the percentages of Outstanding Bonds specified in Section 11.06 and (b) an opinion of Bond Counsel addressed to the Trustee stating that such Supplemental Indenture has been duly and lawfully adopted and filed by the I-Bank 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. 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 12.02. 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 12.02 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 12.02 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 11.07 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 12.02. 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 11.07, shall 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 11.07 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 11.07 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 absolute discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Indenture as it may deem expedient.

**SECTION 11.08 Modifications or Amendments by Unanimous Consent.** The terms and provisions of this Indenture and the rights and obligations of the I-Bank and of the Holders of the Bonds thereunder may be modified or amended in any respect upon the adoption and filing by the I-Bank of a Supplemental Indenture and the consent thereto of the Holders of all of the Bonds then Outstanding, such consent to be given as provided in Section 11.07 except that no notice to Holders of Bonds either by mailing

or publication shall be required; provided, however, that no such modification or amendment shall change or modify any of the rights or obligations of any Fiduciary without the filing with the Trustee of the written assent thereto of such Fiduciary in addition to the consent of the Holders of Bonds.

**SECTION 11.09 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 consent or other action or any calculation of Outstanding Bonds provided for in this Article XI, and the I-Bank shall not be entitled with respect to such Bonds to give any consent or take any other action provided for in this Article. At the time of any consent or other action taken under this Article, 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.

**SECTION 11.10 Notation on Bonds.** Bonds authenticated and delivered after the effective date of any Supplemental Indenture pursuant to this Article XI may, and, if the I-Bank or the Trustee so determines shall, bear a notation by endorsement or otherwise in form approved by the I-Bank and the Trustee as to any modification or amendment provided for in such Supplemental Indenture and, in that case upon demand of the Holder of any Bond Outstanding and upon presentation of any Bond for such purpose at the Principal Office of the Trustee, a suitable notation shall be made on such Bond. If the I-Bank or the Trustee shall so determine, new Bonds so modified as to conform, in the opinion of the Trustee and the I-Bank, to any modification or amendment contained in such Supplemental Indenture, shall be prepared, authenticated 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, principal amount, maturity and interest rate then Outstanding, upon surrender of such Bonds. Any action taken as in Article X or this Article XI provided shall be effective and binding upon all Bondholders notwithstanding that the notation is not endorsed on all Bonds.

**SECTION 11.11 Effect of Supplemental Indenture.** Upon the effective date of any Supplemental Indenture, this Indenture shall be deemed to be modified and amended in accordance therewith, the respective rights, duties, covenants, obligations and agreements pursuant to this Indenture of the I-Bank, the Trustee and all Holders of Bonds Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any such Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

**SECTION 11.12 Amendment of Loan Agreements.** The I-Bank shall not supplement, amend, modify or terminate any Loan Agreement, or consent to any such supplement, amendment, modification or termination, without the written consent of the Trustee, which consent shall not be unreasonably withheld and, in response to such request for consent, the Trustee shall respond in writing to the I-Bank within thirty (30) days of receipt of such request. The Trustee shall give such written consent only if (a) (i) in the opinion of the Trustee, after such supplement, amendment, modification or termination is effective, such Loan Agreement shall continue to meet the requirements of Article VI of this Indenture or (ii) the Trustee first obtains the written consent of the Holders of a majority in aggregate principal amount of the Outstanding Bonds to such supplement, amendment, modification or termination, such written consent being obtained by the Trustee at the sole expense of the Borrower which is a party to the Loan Agreement which is the subject of the supplement, amendment, modification or termination and (b) the Trustee first obtains an opinion of Bond Counsel to the effect that such supplement, amendment, modification or termination will not adversely affect the exclusion from gross income of the interest on the Tax-Exempt Bonds for federal income tax purposes. In making any determination under this Section 11.12, the Trustee may conclusively rely upon an opinion of Bond Counsel.

Notwithstanding any other provision in this Section, (a) the I-Bank may supplement, amend or modify any Loan Agreement without the consent of the Trustee or any Bondholder (i) for the purpose of

amending, supplementing or modifying Section 2.02(p) of the Loan Agreement, and (ii) for the purpose of amending, supplementing or modifying Exhibit H to the Loan Agreement prior to the execution and delivery thereof, and (b) the I-Bank may terminate any Loan Agreement (subject to the termination provisions thereof) without the consent of the Trustee or any Bondholder in the event that all payment obligations thereunder have been irrevocably satisfied by the respective Borrower in full.

**SECTION 11.13 Notice of Amendments.** Promptly after the adoption by the I-Bank of any Supplemental Indenture, the Trustee shall mail by first class mail, postage prepaid, a notice, setting forth in general terms the substance thereof, to the Bondholders of a Series of Bonds affected by such amendment. Any failure to give such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such Supplemental Indenture.

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## ARTICLE XII

### DEFEASANCE

#### SECTION 12.01 Defeasance of Bonds.

1. If the I-Bank shall irrevocably pay or cause to be paid, or there shall otherwise be irrevocably 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 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 irrevocably pay or cause to be paid, or there shall otherwise be irrevocably 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 XII, 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.

2. 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 (1) of this Section. Subject to the provisions of subsections (3) through (5) 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 (1) of this Section if (a) 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, (b) there shall have been deposited with the Trustee (i) either moneys in an amount which shall be sufficient, or Investment Securities (including any Investment 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 (c) 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 (b) above has been made with the Trustee and that such Series of Bonds are deemed to have been paid in accordance with this Section 12.01 and stating such maturity or redemption date upon which moneys are expected, subject to the provisions of subsection (5) of this Section 12.01, 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 (a) 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 12.01 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 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 12.01 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) above with respect to any Bonds deemed to have been paid in accordance with this Section 12.01 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 Investment 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 Investment 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 Investment 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 12.01 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 12.01 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 12.01. 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 12.01 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 12.01 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 12.01 the total amount of moneys and Investment Securities remaining on deposit with the Trustee under this Section 12.01 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 (b) of this subsection 2 of Section 12.01, 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 2 and in subsection 3 through subsection 5 of this Section 12.01, neither Investment Securities nor moneys deposited with the Trustee pursuant to this Section nor principal or interest payments on any such Investment 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 Investment 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 Investment 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.

For the purposes of this Section, Investment Securities shall mean and include only (y) such securities as are described in clause (a) of the definition of “Investment Securities” in Section 1.01 which shall not be subject to redemption prior to their maturity other than at the option of the holder thereof or (z) upon compliance with the provisions of subsection 3 of this Section 12.01, such securities as are described in clause (a) of the definition of Investment Securities which are subject to redemption prior to maturity at the option of the issuer thereof on a specified date or dates.

3. Investment Securities described in clause (z) of subsection 2 of Section 12.01 may be included in the Investment Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of subsection 2 of Section 12.01 only if, in making the determination as to whether the moneys and Investment Securities to be deposited with the Trustee would be sufficient to pay when due the principal or Redemption Price, if applicable, and interest due and to become due on the Bonds which will be deemed to have been paid as provided in subsection 2 of Section 12.01, such determination is made both (i) on the assumption that the Investment Securities described in clause (z) were not redeemed at the option of the issuer prior to the maturity date thereof and (ii) on the assumptions that such Investment Securities were redeemed by the issuer thereof at its option on each date on which such option could be exercised, that as of such date or dates interest ceased to accrue on such Investment Securities and that the proceeds of such redemption were not reinvested by the Trustee.

4. In the event that after compliance with the provisions of subsection 3 of Section 12.01 the Investment Securities described in clause (z) of subsection 2 of Section 12.01 are included in the Investment Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of subsection 2 of Section 12.01 and any such Investment Securities are actually redeemed by the issuer thereof prior to their maturity date, then the Trustee at the written direction of the I-Bank shall reinvest the proceeds of such redemption in Investment Securities, provided that the aggregate of the moneys and Investment Securities to be held by the Trustee, taking into account any changes in redemption dates or instructions to give notice of redemption given to the Trustee by the I-Bank in accordance with subsection 5 of Section 12.01, shall at all times be sufficient to satisfy the requirements of clause (b) of subsection 2 of Section 12.01.

5. In the event that after compliance with the provisions of subsection 3 of Section 12.01 the Investment Securities described in clause (z) of subsection 2 of Section 12.01 are included in the Investment Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of subsection 2 of Section 12.01, then any notice of redemption to be published by the Trustee and any set of instructions relating to a notice of redemption given to the Trustee may provide, at the option of the I-Bank, that any redemption date or dates in respect of all of any portion of the Bonds to be redeemed on such date or dates may at the option of the I-Bank be changed to any other permissible redemption date or dates and that redemption dates may be established for any Bonds deemed to have been paid in accordance with this Section 12.01 upon their maturity date or dates at any time prior to the actual mailing of any applicable notice of redemption in the event that all or any portion of any Investment Securities described in clause (z) of subsection 2 of this Section 12.01 have been called for redemption pursuant to an irrevocable notice

of redemption or have been redeemed by the issuer thereof prior to the maturity date thereof; no such change of redemption date or dates or establishment of redemption date or dates may be made unless, taking into account such changed redemption date or dates or newly established redemption date or dates, the moneys and Investment Securities on deposit with the Trustee (including any Investment Securities deposited with the Trustee in connection with any reinvestment of redemption proceeds in accordance with subsection 5 of Section 12.01) pursuant to clause (b) of subsection 2 of Section 12.01 would be sufficient to pay when due the principal and Redemption Price, if applicable, and interest on all Bonds deemed to have been paid in accordance with subsection 2 of Section 12.01.

6. Anything in this Indenture to the contrary notwithstanding and subject to compliance with applicable State law, any moneys held by a Fiduciary in trust for the payment and discharge of any of the Bonds which remain unclaimed for three years after the later of (i) the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption or (ii) the date of deposit of such moneys with the Fiduciary, shall be repaid by the Fiduciary to the I-Bank as its absolute property and free from the Trust Estate, and the Fiduciary shall thereupon be released and discharged with respect thereto and the Bondholders shall look only to the I-Bank for the payment of such Bonds; provided, however, that before making any such payment to the I-Bank pursuant to the terms hereof, the Fiduciary shall, at the expense of the I-Bank, cause to be published at least twice, at an interval of not less than seven (7) days between publications, in the Authorized Newspapers, a notice that said moneys remain unclaimed and that, after a date named in said notice, which date shall be not less than thirty (30) days after the date of the first publication of such notice, the balance of such moneys then unclaimed will be returned to the I-Bank.

Notwithstanding any other provision in Article XII of this Indenture, 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 the Tax-Exempt Bonds for federal income tax purposes shall survive the defeasance of the Tax-Exempt Bonds.

7. Anything in this Indenture to the contrary notwithstanding, for so long as USEPA is the Holder of the Series 202[ ] Financing Program WIFIA Bonds, the Series 202[ ] Financing Program WIFIA Bonds shall not be subject to defeasance and no amounts in respect of the Series 202[ ] Financing Program WIFIA Bonds shall be considered or deemed to have been paid until USEPA, as Holder of the Series 202[ ] Financing Program WIFIA Bonds, shall have received irrevocable payment in immediately available funds in accordance with the requirements for payment set forth in the WIFIA Loan Agreement.

## **SECTION 12.02 Evidence of Signatures and Ownership of Bonds.**

1. 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 his 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 him 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 his authority.

2. 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.

3. 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.

**SECTION 12.03 Moneys Held for Particular Bonds.** The amounts held by any Fiduciary for the payment of the interest, principal or Redemption Price due on any date with respect to particular Bonds shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Holders of the Bonds entitled thereto.

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## ARTICLE XIII

### MISCELLANEOUS

**SECTION 13.01 Liability of I-Bank Limited to Trust Estate.** Notwithstanding anything contained in this 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 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 13.02 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 13.03 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 13.04 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 13.05 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 by 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 13.06 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 13.07 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 when hand delivered 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

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 13.08 Disqualified Bonds.** In determining whether the Holders of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver 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 13.09 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 13.10 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 13.11 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 13.12 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 13.13 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.

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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

**ATTEST:**

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

\_\_\_\_\_  
☐  
Vice President

By: \_\_\_\_\_  
☐  
Vice President

**EXHIBIT A-1**

**[FORM OF SERIES 202[ ] FINANCING PROGRAM BOND]**

**UNITED STATES OF AMERICA**

**STATE OF NEW JERSEY**

**NEW JERSEY INFRASTRUCTURE BANK**

**ENVIRONMENTAL INFRASTRUCTURE BONDS, SERIES 202[ ][A][I]-W1  
(GREEN BONDS) [(TAXABLE)]**

**NO. R-**\_\_

**CUSIP:** \_\_\_\_\_ - \_\_

**Interest Rate**

**Maturity Date**

**Dated Date**

**Authentication Date**

\_\_\_ %

September 1, \_\_\_

[ ], 202[ ]

[ ], 202[ ]

**Registered Owner:**     **CEDE & CO.**

**Principal Sum:** \_\_\_\_\_ (\$ \_\_, \_\_)

**NEW JERSEY INFRASTRUCTURE BANK** (the “I-Bank”), a public body corporate and politic and an instrumentality of the State of New Jersey created and existing under the laws of the State of New Jersey, hereby acknowledges itself indebted to, and for value received hereby promises to pay to, the Registered Owner stated hereon or its registered assigns, on the Maturity Date stated hereon, but solely from the funds pledged therefor, upon presentation and surrender of this bond at the Principal Office of Zions Bancorporation, National Association d/b/a Zions Bank (such bank and any successors thereto being herein called the “Trustee” and “Paying Agent”), the Principal Sum stated hereon, [on each September 1 and in the amounts as set forth in Schedule A attached hereto,] in lawful currency of the United States of America that at the time of payment is legal tender for the payment of public and private debts, and to pay from such pledged funds on March 1 and September 1 in each year, commencing September 1, 20[ ], until the I-Bank’s obligation with respect to the payment of such Principal Sum shall be discharged to the Registered Owner hereof, interest from the Dated Date hereof on such Principal Sum 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 Series 202[ ] Financing Program Bonds (as hereinafter defined) are held in book-entry-only form pursuant to the Indenture (as hereinafter defined), the provisions of the Indenture governing such book-entry-only form shall govern repayment of the principal or Redemption Price, if any, of and interest on the Series 202[ ] Financing Program Bonds.

This bond is one of a duly authorized Series of Bonds of the I-Bank designated “Environmental Infrastructure Bonds, Series 202[ ][A][I]-W1 (Green Bonds) [(Taxable)]” (herein called the “Series 202[ ] Financing Program Bonds”), and issued in the aggregate principal amount of \$[ ] under and in full compliance with: (i) the Constitution and statutes of the State of New Jersey, including, without limitation, the “New Jersey Infrastructure Trust Act”, constituting chapter 334 of the Pamphlet Laws of 1985 of the State of New Jersey, as amended and supplemented (herein called the “Act”), (ii) a resolution of the I-Bank,

duly adopted on [ ], 20[ ], authorizing and approving, among other things, the Indenture (as defined herein), and (iii) the Indenture of Trust, dated [ ], 20[ ], by and between the I-Bank and the Trustee, as the same may be amended or supplemented from time to time in accordance with its terms (herein called the “Indenture”).

All capitalized terms used but not defined herein shall have the meanings set forth in the Indenture as if fully set forth herein.

As provided in the Indenture, the Series 202[ ] Financing Program Bonds and all other bonds issued on a parity basis with the Series 202[ ] Financing Program Bonds under the Indenture (herein collectively called the “Bonds”) are direct and special obligations of the I-Bank payable solely, subject to the following sentence, from and secured (as to payment of principal or Redemption Price, if any, of and interest on) by the Trust Estate, all in accordance with their terms and the terms and conditions of the Indenture, subject only to the provisions of the Indenture permitting the application of the Trust Estate for the purposes and upon the terms and conditions set forth in the Indenture. The principal or Redemption Price, if any, of and interest on the Series 202[ ] Financing Program Bonds are additionally secured by moneys held by (y) the WIFIA Master Program Trustee in the WIFIA Master Program Trust Account to the extent set forth in the WIFIA Master Program Trust Agreement and (z) the Master Program Trustee in the Master Program Trust Account to the extent set forth in the Master Program Trust Agreement. The Trust Estate under the Indenture includes the Loan Agreements (with certain exceptions set forth in the Indenture), any other Revenues and all other funds and accounts established under the Indenture (other than the Operating Expense Fund, the Project Fund, and the Rebate Fund), including Investment Securities, as applicable, held in any such Fund thereunder, together with all proceeds and revenues of the foregoing, all of the I-Bank’s right, title and interest in and to the foregoing and all other moneys, securities or funds pledged for the payment of the principal or Redemption Price, if any, of and interest on the Bonds in accordance with the terms and provisions of the Indenture. Copies of the Indenture are on file at the office of the I-Bank and at the above-mentioned office of the Trustee. Reference is hereby made to the Act and to the Indenture and any and all supplements thereto and modifications and amendments thereof for a description of the pledge and assignment and covenants securing the Bonds, the nature, extent and manner of enforcement of such pledge, the rights and remedies of the Holders of the Bonds with respect thereto, the terms and conditions upon which the Bonds are issued and may be issued thereunder, the terms and provisions upon which this bond shall cease to be entitled to any lien, benefit or security under the Indenture and for all of the other terms and provisions thereof. All duties, covenants, agreements and obligations of the I-Bank under the Indenture may be discharged and satisfied at or prior to the maturity or redemption, if any, of this bond if moneys or certain specified securities shall have been deposited with the Trustee, all in accordance with the terms and provisions of the Indenture.

As provided in the Indenture, Bonds may be issued from time to time pursuant to Supplemental Indentures in one or more Series in various principal amounts, may mature at different times, may bear interest at different rates and may otherwise vary as in the Indenture provided. Although the aggregate principal amount of Bonds that may be issued under the Indenture is not limited, and all Bonds issued and to be issued under the Indenture are and will be equally secured by the pledge and covenants made therein, except as otherwise expressly provided or permitted in the Indenture, the aggregate amount of bonds that may be issued by the I-Bank is currently limited by the Act. The I-Bank makes no representation as to whether this limitation on the aggregate principal amount of bonds issued by the I-Bank under the Act will continue to restrict the future issuance of bonds by the I-Bank under the Act.

To the extent and in the manner permitted by the terms of the Indenture, the provisions of the Indenture or any Supplemental Indenture amendatory thereof or supplemental thereto may be modified or amended by the I-Bank with the written consent of the holders of at least two-thirds (2/3) in aggregate principal amount of the Bonds Outstanding under the Indenture at the time such consent is given, and, in

case less than all of the several Series of Bonds then Outstanding are affected thereby, with such consent of at least two-thirds (2/3) in aggregate principal amount of the Bonds of each Series so affected and Outstanding; *provided, however*, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series and maturity remain Outstanding under the Indenture, the consent of the holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of the calculation of Outstanding Bonds. No such modification or amendment shall permit a change in the terms of redemption, if any (including Sinking Fund Installments), or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or Redemption Price, if any, thereof or in the rate of interest thereon without the consent of the holder of such Bond, nor shall it 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, nor shall it change or modify any of the rights or obligations of the Trustee or of the Paying Agent without its written assent thereto.

This bond is transferable, as provided in the Indenture, only upon the books of the I-Bank kept for that purpose at the above-mentioned office of the Trustee, as bond registrar, by the Registered Owner hereof in person, or by such Registered Owner's attorney duly authorized in writing, upon surrender of this bond together with a written instrument of transfer satisfactory to the bond registrar duly executed by the Registered Owner or such Registered Owner's duly authorized attorney, and thereupon a new fully registered bond or bonds in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Indenture upon payment of the charges therein prescribed. The I-Bank, the Trustee and the Paying Agent may deem and treat the Registered Owner as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or Redemption Price, if any, hereof and the interest due hereon and for all other purposes.

[The Series 202[ ] Financing Program Bonds shall be subject to redemption prior to their respective stated maturity dates, at the option of the I-Bank, upon the terms set forth in the Indenture, either in whole or in part, and if in part by lot within any maturity or maturities determined by the I-Bank, on any date, upon the payment of 100% of the principal amount thereof and accrued interest thereon to the date fixed for redemption.] [The Series 202[ ] Financing Program Bonds maturing on or before September 1, 20[ ] shall not be subject to redemption prior to their respective stated maturity dates. The Series 202[ ] Financing Program Bonds maturing on or after September 1, 20[ ] shall be subject to redemption prior to their respective stated maturity dates, on or after September 1, 20[ ], at the option of the I-Bank, upon the terms set forth in the Indenture, either in whole or in part, and if in part by lot within any maturity or maturities determined by the I-Bank, on any date, upon the payment of 100% of the principal amount thereof and accrued interest thereon to the date fixed for redemption.]

[None of the Series 202[ ] Financing Program Bonds are subject to mandatory sinking fund redemption prior to their respective stated maturities.] [The Series 202[ ] Financing Program Bonds due September 1, 20[ ] and September 1, 20[ ] are subject to mandatory sinking fund redemption prior to their respective stated maturities, upon the surrender thereof and through selection by lot by the Trustee and upon the giving of notice as provided in the Indenture, by payment of the following "Sinking Fund Installments", on September 1, in each year set forth below, at a Redemption Price which is equal to 100% of the principal amount thereof plus interest accrued to the redemption date, in the following aggregate principal amounts in the following years:

<u>Year</u>	<u>Principal Amount</u>
20[ ]	\$[ ]
20[ ]*	[ ]

<u>Year</u>	<u>Principal Amount</u>
-------------	-------------------------

20[ ]  
20[ ]\*

\$[ ]  
[ ]

\* Final maturity]

The Series 202[ ] Financing Program Bonds are payable upon redemption at the above-mentioned office of the Paying Agent. Notice of redemption, setting forth the place of payment, shall be mailed by the Trustee via first class mail, postage prepaid, not less than thirty (30) nor more than forty-five (45) days prior to the redemption date, to the registered owners of any Series 202[ ] Financing Program Bonds or portions thereof to be redeemed at their last addresses, if any, appearing upon the I-Bank's registry books, all in the manner and upon the terms and conditions set forth in the Indenture. If notice of redemption shall have been mailed as aforesaid, the Series 202[ ] Financing Program Bonds or portions thereof specified in said notice shall become due and payable on the redemption date therein fixed, and if, on the redemption date, moneys for the redemption of all of the Series 202[ ] Financing Program Bonds or portions thereof to be redeemed, together with interest to the redemption date, shall be available for such payment on said date, then from and after the redemption date interest on such Series 202[ ] Financing Program Bonds or portions thereof so called for redemption shall cease to accrue and be payable. Failure of the registered owner of any Series 202[ ] Financing Program Bonds to be redeemed to receive any such notice shall not affect the validity of the proceedings for the redemption of such Series 202[ ] Financing Program Bonds.

The principal or Redemption Price, if any, of and interest on the Series 202[ ] Financing Program Bonds are payable by the I-Bank solely from the Trust Estate, and 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, if any, of or interest on this bond and the issue of which it is one, and neither the faith and credit nor the taxing power of the State of New Jersey or any political subdivision thereof is pledged to the payment of the principal or Redemption Price, if any, of or interest on this bond or the issue of which it is one.

It is hereby certified and recited that all conditions, acts and things required by law and the Indenture to exist, to have happened and to have been performed precedent to and in the issuance of this bond exist, have happened and have been performed, and the Series of Bonds of which this is one, together with all other indebtedness of the I-Bank, comply in all respects with the applicable laws of the State of New Jersey, including, without limitation, the Act.

This bond shall not be entitled to any benefit under the Indenture or be valid or become obligatory for any purpose until this bond shall have been authenticated by the execution by the Trustee of the Trustee's Certificate of Authentication hereon.



**IN WITNESS WHEREOF, NEW JERSEY INFRASTRUCTURE BANK** has caused this bond to be executed in its name and on its behalf by the manual or facsimile signature of its Chairperson, Vice-Chairperson or other Authorized Officer and its seal to be impressed, imprinted, engraved or otherwise reproduced hereon and attested by the manual or facsimile signature of its Secretary or Assistant Secretary, all as of the Dated Date hereof.

**NEW JERSEY INFRASTRUCTURE BANK**

**By:** \_\_\_\_\_

**[SEAL]**

**ATTEST:**

\_\_\_\_\_  
**Assistant Secretary**

**[FORM OF CERTIFICATE OF AUTHENTICATION ON SERIES 202[ ][ ] BONDS]**

**TRUSTEE'S CERTIFICATE OF AUTHENTICATION**

This bond is one of the Series 202[ ] Financing Program Bonds delivered pursuant to the within-mentioned Indenture.

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

By: \_\_\_\_\_  
**Authorized Signatory**

**[Schedule A**

**Principal Payment Schedule]**

The following abbreviations, when used in the inscription on this bond, shall be construed as though they were written out in full according to applicable laws or regulations (additional abbreviations may also be used though not in the following list):

TEN COM – as tenants in common

TEN ENT – as tenants by the entireties

JT TEN – as joint tenants with  
right of survivorship  
and not as tenants in common

UNIF GIFT MIN ACT

\_\_\_\_\_ Custodian \_\_\_\_\_

(Cust) (Minor)

under Uniform Gifts to Minors Act  
(State)

### ASSIGNMENT

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE (FOR COMPUTER RECORD ONLY): \_\_\_\_\_

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

(Please Print or Typewrite Name and Address of Transferee)

\_\_\_\_\_  
the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints

\_\_\_\_\_, Attorney, to transfer the within bond  
on the books kept for the registration thereof, with full power of substitution in the premises.

Dated:

Signature Guaranty:

Signature:

\_\_\_\_\_  
NOTICE: Signature(s) must  
be guaranteed by a member  
firm of the New York Stock  
Exchange or a commercial  
bank, trust company,  
national bank association  
or other banking institution  
incorporated under the laws of  
the United States or a state  
of the United States.

\_\_\_\_\_  
NOTICE: The signature of this  
Assignment must correspond with the  
name that appears upon the first  
page of the within bond in every  
particular, without alteration or  
enlargement or any change whatsoever.

**EXHIBIT A-2**

**[FORM OF SERIES 202[ ] FINANCING PROGRAM WIFIA BOND]**

**UNITED STATES OF AMERICA**

**STATE OF NEW JERSEY**

**NEW JERSEY INFRASTRUCTURE BANK**

**ENVIRONMENTAL INFRASTRUCTURE WIFIA FINANCING PROGRAM BONDS, SERIES  
202[ ]C-W1 (GREEN BONDS)(TAXABLE)**

**NO. R-\_\_**

<b>Interest Rate</b>	<b>Maturity Date</b>	<b>Dated Date</b>	<b>Authentication Date</b>
__ %	September 1, __	[ ], 202[ ]	[ ], 202[ ]

**Registered Owner:     UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**Principal Sum:\_\_\_\_\_ (\$ \_\_, \_\_)**

**NEW JERSEY INFRASTRUCTURE BANK** (the “I-Bank”), a public body corporate and politic and an instrumentality of the State of New Jersey created and existing under the laws of the State of New Jersey, hereby acknowledges itself indebted to, and for value received hereby promises to pay to, the Registered Owner stated hereon or its registered assigns, on the Maturity Date stated hereon, but solely from the funds pledged therefor, upon presentation and surrender of this bond at the Principal Office of Zions Bancorporation, National Association d/b/a Zions Bank (such bank and any successors thereto being herein called the “Trustee” and “Paying Agent”), the Principal Sum stated hereon, on each September 1 and in the amounts as set forth in Schedule A attached hereto, in lawful currency of the United States of America that at the time of payment is legal tender for the payment of public and private debts, and to pay from such pledged funds on March 1 and September 1 in each year, commencing September 1, 20[ ], until the I-Bank’s obligation with respect to the payment of such Principal Sum shall be discharged to the Registered Owner hereof, interest from the Dated Date hereof on such Principal Sum 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. In addition, the Series 202[ ] Financing Program WIFIA Bonds shall be subject to the Default Rate Liability as and when provided pursuant to the terms of the Indenture and the WIFIA Loan Agreement, which Default Rate Liability shall accrue as an additional default interest liability with respect to the Series 202[ ] Financing Program WIFIA Bonds upon the occurrence of either a Payment Default or a Development Default. The Default Rate Liability, as and to the extent applicable pursuant to the terms of the Indenture, shall be paid solely and exclusively from funds available for such purpose on deposit in the Default Rate Debt Service Reserve Fund.

During any period in which the Series 202[ ] Financing Program WIFIA Bonds are held by the United States Environmental Protection Agency, an agency of the United States of America, acting by and through the Administrator of the Environmental Protection Agency (the “USEPA”) or a Federal Agency, the principal or Redemption Price thereof shall be payable to USEPA or such Federal Agency, as the Holder thereof, in accordance with the payment procedures set forth in Schedule II to the Indenture. At any time

when neither the USEPA nor a Federal Agency is the Holder of the Series 202[ ] Financing Program WIFIA Bonds, the principal or Redemption Price thereof shall be payable to the Holders of the Series 202[ ] Financing Program WIFIA Bonds upon presentation and surrender thereof (i) at the Principal Office of the Trustee, or its successors and assigns, or (ii) at any alternative location that may be established for such payment as permitted by the Indenture. Interest on the Series 202[ ] Financing Program WIFIA Bonds held by the USEPA or a Federal Agency shall be payable in accordance with the payment procedures set forth in Schedule II to the Indenture; provided, however, that if neither USEPA nor a Federal Agency is the Holder of the Series 202[ ] Financing Program WIFIA Bonds, the interest thereon shall be payable by check or draft of the Trustee, mailed or transmitted, respectively, to the Holders thereof as the same appear as of the Record Date on the books of the I-Bank maintained by the Trustee. To the extent that, subsequent to the issuance of the Series 202[ ] Financing Program WIFIA Bonds, such Bonds are held in book-entry-only form pursuant to the provisions of Section 2.06 and Section 2.05 of the Indenture relating to book-entry registration (regardless of the identity of such Holders), the provisions of Section 2.05, relating to book-entry registration, shall govern the payment of principal or Redemption Price, if any, of, and interest on, the Series 202[ ] Financing Program WIFIA Bonds. The payment procedures, as set forth in Schedule II to the Indenture, with respect to the Series 202[ ] Financing Program WIFIA Bonds as and when held by the USEPA or a Federal Agency may be updated and revised from time to time in accordance with the terms of the Indenture.

This bond is one of a duly authorized Series of Bonds of the I-Bank designated “Environmental Infrastructure WIFIA Financing Program Bonds, Series 202[ ]C-W1 (Green Bonds)(Taxable)” (herein called the “Series 202[ ] Financing Program WIFIA Bonds”), and issued in the aggregate principal amount of \$[ ] under and in full compliance with: (i) the Constitution and statutes of the State of New Jersey, including, without limitation, the “New Jersey Infrastructure Trust Act”, constituting chapter 334 of the Pamphlet Laws of 1985 of the State of New Jersey, as amended and supplemented (herein called the “Act”), (ii) a resolution of the I-Bank, duly adopted on [ ], 20[ ], authorizing and approving, among other things, the Indenture (as defined herein), and (iii) the Indenture of Trust, dated [ ], 20[ ], by and between the I-Bank and the Trustee, as the same may be amended or supplemented from time to time in accordance with its terms (herein called the “Indenture”).

All capitalized terms used but not defined herein shall have the meanings set forth in the Indenture as if fully set forth herein.

As provided in the Indenture, the Series 202[ ] Financing Program WIFIA Bonds and all other bonds issued on a parity basis with the Series 202[ ] Financing Program WIFIA Bonds under the Indenture (herein collectively called the “Bonds”) are direct and special obligations of the I-Bank payable solely, subject to the following sentence, from and secured (as to payment of principal or Redemption Price, if any, of and interest on) by the Trust Estate, all in accordance with their terms and the terms and conditions of the Indenture, subject only to the provisions of the Indenture permitting the application of the Trust Estate for the purposes and upon the terms and conditions set forth in the Indenture. The principal or Redemption Price, if any, of and interest on the Series 202[ ] Financing Program WIFIA Bonds are additionally secured by moneys held by (y) the WIFIA Master Program Trustee in the WIFIA Master Program Trust Account to the extent set forth in the WIFIA Master Program Trust Agreement and (z) the Master Program Trustee in the Master Program Trust Account to the extent set forth in the Master Program Trust Agreement. The Trust Estate under the Indenture includes the Loan Agreements (with certain exceptions set forth in the Indenture), any other Revenues and all other funds and accounts established under the Indenture (other than the Operating Expense Fund, the Project Fund, and the Rebate Fund), including the Default Rate Debt Service Reserve Fund (funded as and to the extent required pursuant to the terms of the Indenture) pledged solely and exclusively to secure the payment liability of the I-Bank with respect to any Default Rate Liability that may be applicable to the Series [ ] Financing Program WIFIA Bonds, including Investment Securities, as applicable, held in any such Fund thereunder, together with all proceeds and revenues of the

foregoing, all of the I-Bank's right, title and interest in and to the foregoing and all other moneys, securities or funds pledged for the payment of the principal or Redemption Price, if any, of and interest on the Bonds in accordance with the terms and provisions of the Indenture. Copies of the Indenture are on file at the office of the I-Bank and at the above-mentioned office of the Trustee. Reference is hereby made to the Act and to the Indenture and any and all supplements thereto and modifications and amendments thereof for a description of the pledge and assignment and covenants securing the Bonds, the nature, extent and manner of enforcement of such pledge, the rights and remedies of the Holders of the Bonds with respect thereto, the terms and conditions upon which the Bonds are issued and may be issued thereunder, the terms and provisions upon which this bond shall cease to be entitled to any lien, benefit or security under the Indenture and for all of the other terms and provisions thereof. All duties, covenants, agreements and obligations of the I-Bank under the Indenture may be discharged and satisfied at or prior to the maturity or redemption, if any, of this bond if moneys or certain specified securities shall have been deposited with the Trustee, all in accordance with the terms and provisions of the Indenture.

As provided in the Indenture, Bonds may be issued from time to time pursuant to Supplemental Indentures in one or more Series in various principal amounts, may mature at different times, may bear interest at different rates and may otherwise vary as in the Indenture provided. Although the aggregate principal amount of Bonds that may be issued under the Indenture is not limited, and all Bonds issued and to be issued under the Indenture are and will be equally secured by the pledge and covenants made therein, except as otherwise expressly provided or permitted in the Indenture, the aggregate amount of bonds that may be issued by the I-Bank is currently limited by the Act. The I-Bank makes no representation as to whether this limitation on the aggregate principal amount of bonds issued by the I-Bank under the Act will continue to restrict the future issuance of bonds by the I-Bank under the Act.

To the extent and in the manner permitted by the terms of the Indenture, the provisions of the Indenture or any Supplemental Indenture amendatory thereof or supplemental thereto may be modified or amended by the I-Bank with the written consent of the holders of at least two-thirds (2/3) in aggregate principal amount of the Bonds Outstanding under the Indenture at the time such consent is given, and, in case less than all of the several Series of Bonds then Outstanding are affected thereby, with such consent of at least two-thirds (2/3) in aggregate principal amount of the Bonds of each Series so affected and Outstanding; *provided, however*, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series and maturity remain Outstanding under the Indenture, the consent of the holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of the calculation of Outstanding Bonds. No such modification or amendment shall permit a change in the terms of redemption, if any, or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or Redemption Price, if any, thereof or in the rate of interest thereon without the consent of the holder of such Bond, nor shall it 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, nor shall it change or modify any of the rights or obligations of the Trustee or of the Paying Agent without its written assent thereto.

This bond is transferable, as provided in the Indenture, only upon the books of the I-Bank kept for that purpose at the above-mentioned office of the Trustee, as bond registrar, by the Registered Owner hereof in person, or by such Registered Owner's attorney duly authorized in writing, upon surrender of this bond together with a written instrument of transfer satisfactory to the bond registrar duly executed by the Registered Owner or such Registered Owner's duly authorized attorney, and thereupon a new fully registered bond or bonds in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Indenture upon payment of the charges therein prescribed. The I-Bank, the Trustee and the Paying Agent may deem and treat the Registered Owner as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or Redemption Price, if any, hereof and the interest due hereon and for all other purposes.

The Series 202[ ] Financing Program WIFIA Bonds shall be subject to optional redemption prior to their respective stated maturity dates, on or after September 1, 20[ ] (which date is subsequent to the sixth (6<sup>th</sup>) anniversary of the Effective Date, as such term is defined in the WIFIA Loan Agreement), at the option of the I-Bank, upon the terms set forth in the Indenture, either in whole or in part, and if in part in principal amounts as shall be determined by the I-Bank, provided, however, that any such optional redemption shall be in a principal amount of no less than \$1,000,000 (unless the prior written consent of the Holder is granted) or any integral multiple of \$1.00 in excess thereof, which optional redemption (i) may be implemented on any date, provided, however, that the I-Bank shall not elect to implement more than one such optional redemption during any given Bond Year (unless the prior written consent of the Holder is granted), and (ii) shall be implemented by payment of 100% of the principal amount thereof and accrued interest thereon to the date fixed for redemption. Any such partial optional redemptions of the Series 202[ ] Financing Program WIFIA Bonds shall be applied to reduce future payments due on the maturities of such Bonds then outstanding in inverse order of maturity, and accrued interest thereon to the date fixed for redemption, as directed via a Certificate of an Authorized Officer of the I-Bank delivered to the Trustee at or prior to such partial redemption. In addition, without application of any of the limitations as to optional redemption as set forth in the Indenture, the Series 202[ ] Financing Program WIFIA Bonds shall be subject to mandatory redemption prior to their respective stated maturity dates when any prepayment is made by a Borrower with respect to its I-Bank Loan. Any such partial mandatory redemption of the Series 202[ ] Financing Program WIFIA Bonds pursuant to the Indenture shall be applied to reduce future maturities of the Series 202[ ] Financing Program WIFIA Bonds then outstanding in inverse order of maturity, as directed via a Certificate of an Authorized Officer of the I-Bank delivered to the Trustee at or prior to such partial mandatory redemption; provided, however, that if on any given maturity date on which a Borrower prepayment is applied to a given maturity of the Series 202[ ] Financing Program WIFIA Bonds, pursuant to these mandatory redemption provisions, there also remains outstanding Series 202[ ] Financing Program Bonds maturing on such date, such Borrower prepayment shall be allocated as between each such Series of Bonds maturing on such maturity date as provided in Section 4.02(2) of the Indenture and as memorialized in the above-referenced Certificate of an Authorized Officer of the I-Bank.

None of the Series 202[ ] Financing Program WIFIA Bonds are subject to mandatory sinking fund redemption prior to their respective stated maturities.

The Series 202[ ] Financing Program WIFIA Bonds are payable upon redemption at the above-mentioned office of the Paying Agent. Notice of redemption, setting forth the place of payment, shall be mailed by the Trustee via first class mail, postage prepaid, not less than thirty (30) nor more than forty-five (45) days prior to the redemption date, to the registered owners of any Series 202[ ] Financing Program WIFIA Bonds or portions thereof to be redeemed at their last addresses, if any, appearing upon the I-Bank's registry books, all in the manner and upon the terms and conditions set forth in the Indenture. If notice of redemption shall have been mailed as aforesaid, the Series 202[ ] Financing Program WIFIA Bonds or portions thereof specified in said notice shall become due and payable on the redemption date therein fixed, and if, on the redemption date, moneys for the redemption of all of the Series 202[ ] Financing Program WIFIA Bonds or portions thereof to be redeemed, together with interest to the redemption date, shall be available for such payment on said date, then from and after the redemption date interest on such Series 202[ ] Financing Program WIFIA Bonds or portions thereof so called for redemption shall cease to accrue and be payable. Failure of the registered owner of any Series 202[ ] Financing Program WIFIA Bonds to be redeemed to receive any such notice shall not affect the validity of the proceedings for the redemption of such Series 202[ ] Financing Program WIFIA Bonds.

The principal or Redemption Price, if any, of and interest on the Series 202[ ] Financing Program WIFIA Bonds are payable by the I-Bank solely from the Trust Estate, and 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, if any, of or interest on this bond and the issue of which



it is one, and neither the faith and credit nor the taxing power of the State of New Jersey or any political subdivision thereof is pledged to the payment of the principal or Redemption Price, if any, of or interest on this bond or the issue of which it is one.

It is hereby certified and recited that all conditions, acts and things required by law and the Indenture to exist, to have happened and to have been performed precedent to and in the issuance of this bond exist, have happened and have been performed, and the Series of Bonds of which this is one, together with all other indebtedness of the I-Bank, comply in all respects with the applicable laws of the State of New Jersey, including, without limitation, the Act.

This bond shall not be entitled to any benefit under the Indenture or be valid or become obligatory for any purpose until this bond shall have been authenticated by the execution by the Trustee of the Trustee's Certificate of Authentication hereon.

**IN WITNESS WHEREOF, NEW JERSEY INFRASTRUCTURE BANK** has caused this bond to be executed in its name and on its behalf by the manual or facsimile signature of its Chairperson, Vice-Chairperson or other Authorized Officer and its seal to be impressed, imprinted, engraved or otherwise reproduced hereon and attested by the manual or facsimile signature of its Secretary or Assistant Secretary, all as of the Dated Date hereof.

**NEW JERSEY INFRASTRUCTURE BANK**

By: \_\_\_\_\_

[SEAL]

**ATTEST:**

\_\_\_\_\_  
**Assistant Secretary**

**[FORM OF CERTIFICATE OF AUTHENTICATION ON SERIES 202[ ][ ] BONDS]**

**TRUSTEE'S CERTIFICATE OF AUTHENTICATION**

This bond is one of the Series 202[ ] Financing Program WIFIA Bonds delivered pursuant to the within-mentioned Indenture.

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

By: \_\_\_\_\_  
**Authorized Signatory**

**Schedule A**

**Principal Payment Schedule**

The following abbreviations, when used in the inscription on this bond, shall be construed as though they were written out in full according to applicable laws or regulations (additional abbreviations may also be used though not in the following list):

TEN COM – as tenants in common

TEN ENT – as tenants by the entireties

JT TEN – as joint tenants with  
right of survivorship  
and not as tenants in common

UNIF GIFT MIN ACT

\_\_\_\_\_ Custodian \_\_\_\_\_

(Cust) (Minor)

under Uniform Gifts to Minors Act  
(State)

### ASSIGNMENT

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE (FOR COMPUTER RECORD ONLY): \_\_\_\_\_

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

(Please Print or Typewrite Name and Address of Transferee)

\_\_\_\_\_  
the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints

\_\_\_\_\_, Attorney, to transfer the within bond  
on the books kept for the registration thereof, with full power of substitution in the premises.

Dated:

Signature Guaranty:

Signature:

\_\_\_\_\_  
NOTICE: Signature(s) must  
be guaranteed by a member  
firm of the New York Stock  
Exchange or a commercial  
bank, trust company,  
national bank association  
or other banking institution  
incorporated under the laws of  
the United States or a state  
of the United States.

\_\_\_\_\_  
NOTICE: The signature of this  
Assignment must correspond with the  
name that appears upon the first  
page of the within bond in every  
particular, without alteration or  
enlargement or any change whatsoever.

**EXHIBIT B**

**Form of I-Bank Continuing Disclosure Agreement**

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**I-BANK CONTINUING DISCLOSURE AGREEMENT**

**BY AND AMONG**

**NEW JERSEY INFRASTRUCTURE BANK,**

**[TRUSTEE],  
as Trustee**

**AND**

**U.S. BANK TRUST NATIONAL ASSOCIATION  
as Master Program Trustee**

**Dated as of [Date]**

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Entered into with respect to the New Jersey Infrastructure Bank's Environmental  
Infrastructure [Bonds], Series [\_\_\_\_], dated [dated date]

## **I-BANK CONTINUING DISCLOSURE AGREEMENT**

**THIS I-BANK CONTINUING DISCLOSURE AGREEMENT** (this "Agreement"), made and entered into as of [date], by and among NEW JERSEY INFRASTRUCTURE BANK (the "I-Bank"), a public body corporate and politic with corporate succession duly created and validly existing under the laws of the State of New Jersey (the "State"), [TRUSTEE], as Trustee, a national banking association and trust company duly organized and validly existing under the laws of the United States and duly authorized to act in the State (the "Trustee"), and U.S. BANK TRUST NATIONAL ASSOCIATION, as Master Program Trustee, a national banking association and trust company duly organized and validly existing under the laws of the United States and duly authorized to act in the State (the "Master Program Trustee").

### **WITNESSETH THAT:**

**WHEREAS**, the I-Bank, duly created and validly existing under and by virtue of the "New Jersey Environmental 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 (the "Act"), in accordance with and pursuant to (i) the Act, (ii) the [Bond Resolution], as adopted by the Board of Directors of the I-Bank on [date] (the "Resolution"), (iii) the Indenture of Trust, to be dated [date], by and between the I-Bank and the Trustee, with respect to the Bonds, as the same may be amended and supplemented from time to time in accordance with the terms thereof (the "Trust Indenture"); and (iv) a financial plan approved by the State Legislature in accordance with Sections 21 and 21.1 of the Act, has issued its [Bonds] (the "Bonds") as part of the State Fiscal Year [ ] environmental infrastructure financing program (the "Program") for the purpose, *inter alia*, of making loans to, among others, any New Jersey municipality or county or municipal, county or regional sewerage, utilities or improvement authority, any other local political subdivision, or any private water company (each a "Borrower") authorized to construct, operate and maintain environmental infrastructure systems that has entered into a Loan Agreement with the I-Bank, dated as of [date] (each a "I-Bank Loan Agreement"), pursuant to which such Borrower will borrow money financed through the issuance of the Bonds (the "I-Bank Loan") to finance a portion of the cost of its environmental infrastructure system project (each a "Project") (all capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings set forth in Article I of the I-Bank Loan Agreement);

**WHEREAS**, each Borrower has, in accordance with the Act and the Regulations, made timely application to the I-Bank for a I-Bank Loan to finance a portion of the Cost of the Project;

**WHEREAS**, the State Legislature, in accordance with Sections 20 and 20.1 of the Act, has in the form of an appropriations act approved a project eligibility list that includes each Project and that authorizes an expenditure of proceeds of the Bonds to finance a portion of the Cost of the Project;

**WHEREAS**, the I-Bank has approved each Borrower's application for a I-Bank Loan from available proceeds of the Bonds to finance a portion of the Cost of the Project;

**WHEREAS**, the State, acting by and through the New Jersey Department of Environmental Protection, has simultaneously made a companion loan (each a "Fund Loan") to each of the Borrowers for the balance of the then eligible costs of each such Project, with the balance of any such costs funded by the Borrowers or by supplemental loans from the I-Bank and the State in other financing programs;

**WHEREAS**, each Borrower, in accordance with, as applicable, the Act, the Regulations, the Borrower Enabling Act, the "Local Bond Law", constituting Chapter 169 of the Pamphlet Laws of 1960 of the State (codified as N.J.S.A. 40A:2-1 et seq.) as the same may from time to time be amended and supplemented, the "Local Budget Law", constituting Chapter 169 of the Pamphlet Laws of 1960 of the State (codified at N.J.S.A. 40A:4-1 et seq.), as the same may from time to time be amended and supplemented, the "Redevelopment Area Bond Financing Law", constituting Chapter 310 of the Pamphlet Laws of 2001 of the State (codified at N.J.S.A. 40A:12A-64 et seq.), as the same may from time to time be amended and supplemented, the "Municipal and County Utilities Authorities Law", constituting Chapter 183 of the Pamphlet Laws of 1957 of the State (codified at N.J.S.A. 40:14B-1 et seq.), as the same may from time to time be amended and supplemented, the "Sewerage Authorities Law", constituting Chapter 138 of the Pamphlet Laws of 1946 of the State (codified at N.J.S.A. 40:14A-2 et seq.), as the same may from time to time be amended and supplemented, the "County Improvement Authorities Law", constituting Chapter 183 of the Pamphlet Laws of 1960 of the State (codified at N.J.S.A. 40:37A-44 et seq.), as the same may from time to time be amended and supplemented, the "Local Authorities Fiscal Control Law", constituting Chapter 313 of the Pamphlet Laws of 1983 of the State (codified at N.J.S.A. 40A:5A--1 et seq.), as the same may from time to time be amended and supplemented, and ;the "New Jersey Business Corporation Act", constituting Chapter 263 of the Pamphlet Laws of 1968 of the State (codified at N.J.S.A. 14A:1-1 et seq.), as the same may from time to time be amended and supplemented, has issued a Borrower bond to the I-Bank evidencing its I-Bank Loan and a Borrower bond to the State evidencing its Fund Loan on the date of issuance of the Bonds;

**WHEREAS**, the Trustee has duly accepted, as Trustee for the Holders from time to time of the Bonds, the trusts imposed upon it by the Trust Indenture in connection with the issuance of the Bonds;

**WHEREAS**, pursuant to the terms and provisions of the Trust Indenture the State's right to receive Fund Loan repayments to be made by Borrowers is subordinate to the right of the I-Bank to receive I-Bank Loan repayments to be made by such Borrowers as security for the Bonds;

**WHEREAS**, pursuant to the terms and provisions of that certain Master Program Trust Agreement dated as of November 1, 1995 by and among the I-Bank, the State, acting by and through the State Treasurer on behalf of the State and the State Department of Environmental Protection, United States Trust Company of New York, as Master Program Trustee thereunder, The Bank of New York (NJ), in several capacities thereunder, and First Fidelity Bank, N.A. (predecessor to U.S. Bank National Association), in several capacities thereunder, as supplemented by that certain Agreement of Resignation of Outgoing Master Program Trustee, Appointment of Successor Master Program Trustee and Acceptance Agreement dated as of November 1, 2001 by and among the United States Trust Company of New York, as Outgoing Master Program Trustee, State Street Bank and Trust Company, N.A., (predecessor to U.S. Bank Trust National



Association), as Successor Master Program Trustee, and the I-Bank, as the same may be amended and supplemented from time to time in accordance with its terms (as amended, the "Master Program Trust Agreement"), the State has agreed to subordinate further its right to receive Fund Loan repayments to be made pursuant to the Coverage Providing Financing Programs (as such term is defined in the Master Program Trust Agreement), which further subordination will occur through the payment by the loan servicers under the Coverage Providing Financing Programs of certain moneys into a "Master Program Trust Account" at the times and in the amounts set forth in the Master Program Trust Agreement, such moneys to be held by the Master Program Trustee as security for the Coverage Receiving Trust Bonds (as such term is defined in the Master Program Trust Agreement), including, without limitation, the Bonds;

**WHEREAS**, pursuant to the provisions of the WIFIA Master Program Trust Agreement, dated as of \_\_\_\_\_, 2022 (the "WIFIA MPTA"), by and among the I-Bank, the State, the Master Program Trustee and Zions Bancorporation, National Association d/b/a Zions Bank, as the master program trustee thereunder (the "WIFIA Master Program Trustee"), the State has agreed to subordinate further its right to receive Fund Loan repayments to be made pursuant to the WIFIA Financing Programs (as such term is defined in the WIFIA MPTA), which further subordination will occur through the payment by the trustees under the WIFIA Financing Programs of certain moneys into a "WIFIA Master Program Trust Account" at the times and in the amounts set forth in the WIFIA MPTA, such moneys to be held by the WIFIA Master Program Trustee as security for the WIFIA Bonds (as such term is defined in the WIFIA MPTA), including, without limitation, the Bonds;

**WHEREAS**, the Securities and Exchange Commission (the "SEC"), pursuant to the Securities Exchange Act of 1934, as amended and supplemented (codified as of the date hereof at 15 U.S.C. 77 *et seq.*) (the "Securities Exchange Act"), has adopted amendments effective July 3, 1995 to its Rule 15c2-12 (codified at 17 C.F.R. §240.15c2-12), as the same may be further amended, supplemented and officially interpreted from time to time or any successor provision thereto ("Rule 15c2-12"), generally prohibiting a broker, dealer or municipal securities dealer from purchasing or selling municipal securities, such as the Bonds, unless such broker, dealer or municipal securities dealer has reasonably determined that an issuer of municipal securities or an obligated person has undertaken in a written agreement or contract for the benefit of holders of such securities to provide certain annual financial information and operating data and notices of the occurrence of certain material events to various information repositories;

**WHEREAS**, in order to comply with Rule 15c2-12, the I-Bank has determined that (i) the Program and (ii) certain Borrowers, and, if applicable, certain related local government units, are material "obligated persons" in connection with the issuance of the Bonds, as the term "obligated person" is defined in Rule 15c2-12, which determination has been made pursuant to objective criteria (the "Objective Criteria") set forth in the Trust Indenture, the Notice of Sale dated [date] (the "Notice of Sale"), the Preliminary Official Statement dated [date] (the "Preliminary Official Statement") and the Final Official Statement dated [date] (the "Final Official Statement"), which Objective Criteria, as set forth in the Final Official Statement, are attached hereto as **Exhibit A** and made a part hereof;

**WHEREAS**, each such Borrower has entered into a separate continuing disclosure agreement with the I-Bank and the Trustee (or any successor thereto) for the purpose of satisfying Rule 15c2-12, and pursuant to the terms of such agreement each such Borrower is required to cause the delivery of the information described therein to the municipal securities marketplace for the period of time specified therein;

**WHEREAS**, the I-Bank is not an "obligated person" in connection with the Bonds, as the term "obligated person" is defined in Rule 15c2-12;

**WHEREAS**, simultaneously with the issuance of the Bonds, the I-Bank shall enter into this Agreement with the Trustee and the Master Program Trustee for the purpose of satisfying Rule 15c2-12;

**WHEREAS**, on [Sale Date], the I-Bank accepted the bid of [Purchaser], on behalf of itself and each of the original underwriters for the Bonds (each a "Participating Underwriter"), for the purchase of the Bonds; and

**WHEREAS**, the execution and delivery of this Agreement have been duly authorized by the I-Bank, the Trustee and the Master Program Trustee, respectively, and all conditions, acts and things necessary and required to exist, to have happened or to have been performed precedent to and for the execution and delivery of this Agreement, do exist, have happened and have been performed in regular form, time and manner.

**NOW, THEREFORE**, for and in consideration of the premises and of the mutual representations, covenants and agreements herein set forth, the I-Bank, the Trustee and the Master Program Trustee, each binding itself, its successors and assigns, do mutually promise, covenant and agree as follows:

## **ARTICLE 1**

### **DEFINITIONS**

**Section 1.1. Terms Defined in Recitals.** All terms defined in the preambles hereof shall have the respective meanings set forth therein for all purposes of this Agreement.

**Section 1.2. Additional Definitions.** The following additional terms shall have the meanings specified below:

"Annual Report" means Financial Statements and Operating Data provided at least annually with respect to the I-Bank.

"Auditor" means an independent certified public accountant, a registered municipal accountant or such other accountant as shall be permitted or required under State law in accordance with GAAS.

"Bondholder" or "Holder" or any similar term, when used with reference to the Bonds, means any person who shall be the registered owner of any outstanding Bonds, including holders of beneficial interests in the Bonds.

"Bond Disclosure Event" means any event described in Section 2.1(c) of this Agreement.

"Bond Disclosure Event Notice" means the notice to each National Repository or the MSRB and the State Depository, if any, as provided in Section 2.4(c) of this Agreement.

"Dissemination Agent" means an entity acting in its capacity as Dissemination Agent under this Agreement or any successor Dissemination Agent designated in writing by the I-Bank that has filed a written acceptance of such designation.

"EMMA" means Electronic Municipal Market Access facility for municipal securities disclosure of the MSRB.

"Financial Obligation" means a (i) a debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term Financial Obligation shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with Rule 15c2-12.

"Financial Statements" means the audited financial statements for each Fiscal Year, if and when available, relating to the Bonds and the Master Program Trust Account. Currently, no audited financial statements are completed with respect to the Bonds or the Master Program Trust Account.

"Fiscal Year" means the fiscal year of the I-Bank as determined by the I-Bank from time to time pursuant to State law. As of the date of this Agreement, the Fiscal Year of the I-Bank

begins on July 1 of each calendar year and closes on June 30 of the immediately succeeding calendar year.

"GAAP" means generally accepted accounting principles as in effect from time to time in the United States of America, consistently applied, as modified by governmental accounting standards and mandated State statutory principles applicable to the I-Bank as may be in effect from time to time.

"GAAS" means generally accepted auditing standards as in effect from time to time in the United States of America, consistently applied, as modified by governmental auditing standards and mandated State statutory principles applicable to the I-Bank as may be in effect from time to time.

"MSRB" means the Municipal Securities Rulemaking Board. The address of the MSRB as of the date of this Agreement is 1900 Duke Street, Suite 600, Alexandria, VA 22314.

"National Repository" means a "nationally recognized municipal securities information repository" within the meaning of Rule 15c2-12. As of the date of this Agreement, the National Repository designated by the SEC in accordance with Rule 15c2-12 is EMMA.

"Obligated Person" means, collectively, (i) the Program and (ii) all Borrowers (and, if applicable, related local government units) determined by the I-Bank to be material "obligated persons" in connection with the issuance of the Bonds, as the term "obligated person" is defined in Rule 15c2-12, which determination has been made pursuant to the Objective Criteria.

"Operating Data" means, generally, certain financial and statistical information of the I-Bank relating to the Bonds and the Master Program Trust Account, substantially in the form included as the "Master Program Trust Agreement Schedule" to the audited financial statements of the I-Bank, attached as Appendix A to the Final Official Statement.

"Prescribed Form" means such electronic format accompanied by such identifying information as shall be prescribed by the MSRB and which shall be in effect on the date of filing of such information.

"Repository" means each National Repository and each State Depository, if any.

"State Depository" means any public or private repository or entity designated by the State as a state information depository for purposes of Rule 15c2-12. As of the date of this Agreement, there is no State Depository.

**Section 1.3. Interpretation.** Words of masculine gender include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular include the plural and vice versa, and words importing persons include corporations, associations, partnerships (including limited partnerships), trusts, firms and other legal entities, including public bodies, as well as natural persons. Articles and Sections referred to by number

mean the corresponding Articles and Sections of this Agreement. The terms "hereby", "hereof", "hereto", "herein", "hereunder" and any similar terms as used in this Agreement refer to this Agreement as a whole unless otherwise expressly stated. The headings of this Agreement are for convenience only and shall not define or limit the provisions hereof.

## ARTICLE 2

### CONTINUING DISCLOSURE COVENANTS AND REPRESENTATIONS

**Section 2.1. Continuing Disclosure Covenants of I-Bank.** The I-Bank agrees that it will provide or, if the I-Bank has appointed or engaged a Dissemination Agent, shall cause the Dissemination Agent to provide:

(a) Not later than two hundred twenty-five (225) days after the end of each Fiscal Year, commencing with the first Fiscal Year of the I-Bank ending after January 1, 20\_\_ (which will end on June 30, 20\_\_), an Annual Report to each Repository in Prescribed Form.

(b) Not later than fifteen (15) days prior to the date with respect to each Fiscal Year specified in Section 2.1(a) hereof, a copy of the Annual Report, complete to the extent required in Section 2.1(a) hereof, to the Trustee and the Dissemination Agent (if the I-Bank has appointed or engaged a Dissemination Agent).

(c) In a timely manner, not in excess of ten business days after the occurrence of the applicable event, to each National Repository or to the MSRB and the State Depository, if any, notice, in Prescribed Form, of any of the following events with respect to the Bonds (each a "Bond Disclosure Event"), with a copy of such notice to the Trustee (for informational purposes only):

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) Substitution of credit or liquidity providers or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) Modifications to the rights of Bondholders, if material;
- (viii) Bond calls (other than regularly scheduled mandatory sinking fund redemptions for which notice of redemption has been given to the Bondholders as required pursuant to the provisions of the Trust Indenture), if material, and tender offers;
- (ix) Defeasances;

- (x) Release, substitution or sale of property securing repayment of the Bonds, if material;
- (xi) Rating changes;
- (xiii) Bankruptcy, insolvency, receivership or similar event of any Obligated Person;
- (xiii) The consummation of a merger, consolidation, or acquisition involving an Obligated Person or the sale of all or substantially all of the assets of the Obligated Person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action, or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) Appointment of a successor to the Trustee, the Master Program Trustee or the WIFIA Master Program Trustee, appointment of an additional Trustee, Master Program Trustee or WIFIA Master Program Trustee, or the change of name of the Trustee, the Master Program Trustee or the WIFIA Master Program Trustee, if material;
- (xv) Incurrence of a Financial Obligation of the Obligated Person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Obligated Person, any of which affect Bondholders, if material; and
- (xvi) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Obligated Person, any of which reflect financial difficulties.

**Section 2.2. Reserved.**

**Section 2.3. Form of Annual Report.** (a) The Annual Report may be submitted by the I-Bank, or on behalf thereof, as a single document or as separate documents comprising a package, provided that each document shall be submitted in Prescribed Form.

(b) Any or all of the items that must be included in the Annual Report may be incorporated by reference from other documents, including official statements delivered in connection with other financings issued on behalf of the I-Bank that have been submitted to each of the Repositories or filed with the SEC. If the document incorporated by reference is a final official statement, it must be available from the MSRB (including, without limitation, EMMA). The I-Bank shall clearly identify each such other document so incorporated by reference.

(c) The Annual Report for any Fiscal Year containing any modified operating data or financial information (as contemplated by Sections 4.9 and 4.10 hereof) for such Fiscal Year shall

explain, in narrative form, the reasons for such modification and the effect of such modification on the Annual Report being provided for such Fiscal Year.

**Section 2.4. Responsibilities and Duties of I-Bank, Dissemination Agent and Trustee.** (a) If fifteen (15) days prior to the date specified in Section 2.1(a) hereof the Trustee has not received a copy of the Annual Report, complete to the extent required in Section 2.1(a) hereof, the Trustee shall contact the I-Bank to provide notice of the I-Bank's obligations pursuant to Sections 2.1(a), 2.1(b) and 2.4(d)(ii) hereof.

(b) If the Trustee, by the date specified in Section 2.1(a) hereof, has not received a written report from the I-Bank, as required by Section 2.4(d)(ii) hereof, indicating that an Annual Report, complete to the extent required in Section 2.1(a) hereof, has been provided to the Repositories by the date specified in Section 2.1(a) hereof, the Trustee shall send a notice to each National Repository or to the MSRB and the State Depository, if any, in substantially the form attached hereto as **Exhibit B** together with any standard forms or cover sheets that may be required by the MSRB as of the date thereof, with a copy thereof to the I-Bank.

(c) If the I-Bank has determined that the occurrence of a Bond Disclosure Event would be material, the I-Bank shall file promptly a notice of such occurrence with each National Repository or with the MSRB and the State Depository, if any (the "Bond Disclosure Event Notice"), in a form determined by the I-Bank together with any standard forms or cover sheets that may be required by the MSRB as of the date thereof; *provided*, that the Bond Disclosure Event Notice pertaining to the occurrence of a Bond Disclosure Event described in Section 2.1(c)(viii) (Bond calls) or 2.1(c)(ix) (defeasances) need not be given under this Section 2.4(c) any earlier than the time when the notice (if any) of such Bond Disclosure Event shall be given to Holders of affected Bonds as provided in Sections 4.05 and 12.01 of the Trust Indenture, respectively. The obligations of the I-Bank to provide the notices required under this Agreement are in addition to, and not in substitution of, any of the obligations (if any) of the Trustee to provide notices of events of default to Bondholders under Article IX of the Trust Indenture. The I-Bank shall file a copy of each Bond Disclosure Event Notice with the Trustee (for informational purposes only).

(d) The I-Bank shall or, if the I-Bank has appointed or engaged a Dissemination Agent, shall cause the Dissemination Agent to:

(i) determine each year, prior to the date for providing the Annual Report, the name and address of each National Repository and each State Depository, if any; and

(ii) by the date specified in Section 2.1(a) hereof, provide a written report to the Trustee (and, if a Dissemination Agent has been appointed, to the I-Bank), upon which said parties may rely, certifying that the Annual Report, complete to the extent required in Section 2.1(a) hereof, has been provided pursuant to this Agreement, stating the date it was provided and listing all of the Repositories to which it was provided.

**Section 2.5. Appointment, Removal and Resignation of Dissemination Agent.** (a) The I-Bank may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Agreement, and shall provide notice of such appointment to the



Trustee. Thereafter, the I-Bank may discharge any such Dissemination Agent and satisfy its obligations under this Agreement without the assistance of a Dissemination Agent, or the I-Bank may discharge a Dissemination Agent and appoint a successor Dissemination Agent, such discharge to be effective upon the date of the appointment of a successor Dissemination Agent. The I-Bank shall provide notice of the discharge of a Dissemination Agent to the Trustee, and shall further indicate either the decision of the I-Bank to satisfy its obligations under this Agreement without the assistance of a Dissemination Agent or the identity of the new Dissemination Agent.

(b) The Dissemination Agent shall have only such duties as are specifically set forth in this Agreement.

(c) The Dissemination Agent, or any successor thereto, may at any time resign and be discharged of its duties and obligations hereunder by giving not less than thirty (30) days' written notice to the I-Bank. Such resignation shall take effect on the date specified in such notice.

(d) The I-Bank, the Trustee and the Master Program Trustee acknowledge that the I-Bank has not, as of the date of this Agreement, appointed or engaged any party, including, without limitation, the Trustee or the Master Program Trustee, to serve as Dissemination Agent.

**Section 2.6. Responsibilities and Duties of Master Program Trustee.** The Master Program Trustee, for the purposes of satisfying the requirements of Rule 15c2-12, hereby consents to the use by the I-Bank and the Auditor, as the case may be, of the monthly summary report of all transactions implemented within the Master Program Trust Account (the submission of such monthly report being required pursuant to the terms and provisions of Section 3 of the Master Program Trust Agreement) (the "Summary Report") in the following manner: (i) the Summary Report may be provided by the I-Bank to the Auditor; and (ii) the I-Bank and the Auditor may rely upon the Summary Report in determining the balance in the Master Program Trust Account.

**Section 2.7. Immunities and Liabilities of Trustee.** Article X of the Trust Indenture, as it relates to the immunities and liabilities of the Trustee, is hereby made applicable to the Trustee's responsibilities under this Agreement.

## ARTICLE 3

### REMEDIES

**Section 3.1. Remedies.** (a) The Trustee may, in reliance upon the advice of counsel (and at the request of the Holders of at least twenty-five percent (25%) in aggregate principal amount of the Bonds outstanding, after the provision of indemnity in accordance with Section 10.05 of the Trust Indenture, shall), or any Bondholder may, for the equal benefit and protection of all Bondholders similarly situated, take whatever action at law or in equity against the I-Bank and any of its respective officers, agents and employees necessary or desirable to enforce the specific performance and observance of any obligation, agreement or covenant of the I-Bank under this Agreement, and may compel the I-Bank or any of its respective officers, agents and employees (except for the Dissemination Agent with respect to the obligations, agreements and covenants of the I-Bank) to perform and carry out its duties under this Agreement; *provided*, that no person or entity shall be entitled to recover monetary damages hereunder under any circumstances; and *provided, further*, that any Bondholder, acting for the equal benefit and protection of all Bondholders similarly situated, may pursue specific performance only with respect to the failure to file the Annual Reports and Bond Disclosure Event Notices required by this Agreement, and may not pursue specific performance in challenging the adequacy of Annual Reports that have been filed pursuant to the provisions hereof.

(b) In case the Trustee or any Bondholder shall have proceeded to enforce its rights under this Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or any Bondholder, as the case may be, then and in every such case the I-Bank, the Trustee and any Bondholder, as the case may be, shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the I-Bank, the Trustee and any Bondholder shall continue as though no such proceeding had been taken.

(c) A failure by the I-Bank to perform its respective obligations under this Agreement shall not be deemed an event of default under either the Trust Indenture or any I-Bank Loan Agreement, as the case may be, and the sole remedy under this Agreement in the event of any failure by the I-Bank to comply with this Agreement shall be as set forth in Section 3.1(a) of this Agreement.

## ARTICLE 4

### MISCELLANEOUS

**Section 4.1. Purposes of Agreement.** This Agreement is being executed and delivered by the I-Bank, the Trustee and the Master Program Trustee for the benefit of the Bondholders and in order to assist the Participating Underwriter in complying with clause (b)(5) of Rule 15c2-12.

**Section 4.2. I-Bank and Bondholders.** Each Bondholder is hereby recognized as being a third-party beneficiary hereunder, and each may enforce, for the equal benefit and protection of all Bondholders similarly situated, any such right, remedy or claim conferred, given or granted hereunder in favor of the Trustee, to the extent permitted in Section 3.1(a) hereof.

**Section 4.3. Obligations of I-Bank Hereunder; Indemnified Parties.** The I-Bank agrees to indemnify and hold harmless the Trustee and the Master Program Trustee, and any member, officer, official, employee, counsel, consultant and agent of the Trustee and the Master Program Trustee (collectively, the "Indemnified Parties"), against any and all losses, claims, damages, liabilities or expenses whatsoever caused by the I-Bank's failure, or a Dissemination Agent's failure, to perform or observe any of the I-Bank's obligations, agreements or covenants under the terms of this Agreement, but only if and insofar as such losses, claims, damages, liabilities or expenses are caused directly or indirectly by any such failure of the I-Bank or the Dissemination Agent to perform. In case any action shall be brought against the Indemnified Parties based upon this Agreement and in respect of which indemnity may be sought against the I-Bank, the Indemnified Parties shall promptly notify the I-Bank in writing. Upon receipt of such notification, the I-Bank shall promptly assume the defense of such action, including the retention of counsel, the payment of all expenses in connection with such action and the right to negotiate and settle any such action on behalf of such party to the extent allowed by law. Any Indemnified Party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party, unless the employment of such counsel has been specifically authorized by the I-Bank or unless by reason of conflict of interest (determined by the written opinion of counsel to any such party) it is advisable for such party to be represented by separate counsel to be retained by the I-Bank, in which case the fees and expenses of such separate counsel shall be borne by the I-Bank. The I-Bank shall not be liable for any settlement of any such action effected without its written consent, but if settled with the written consent of the I-Bank or if there be a final judgment for the plaintiff in any such action with or without written consent, the I-Bank agrees to indemnify and hold harmless the Indemnified Parties from and against any loss or liability by reason of such settlement or judgment. Nothing in this Section 4.3 shall require or obligate the I-Bank to indemnify or hold harmless the Indemnified Parties from or against any loss, claim, damage, liability or expense caused by any negligence, recklessness or intentional misconduct of the Indemnified Parties in connection with the I-Bank's performance of its obligations, agreements and covenants under this Agreement.

**Section 4.4. Additional Information.** Nothing in this Agreement shall be deemed to prevent the I-Bank (a) from disseminating any other information using the means of dissemination set forth in this Agreement or any other means of communication, or (b) from including, in addition to that which is required by this Agreement, any other information in any Annual Report or any Bond Disclosure Event Notice. If the I-Bank chooses to include any information in any Annual Report or any Bond Disclosure Event Notice in addition to that which is specifically required by this Agreement, the I-Bank shall not have any obligation under this Agreement to update such information or to include it in any future Annual Report or Bond Disclosure Event Notice, as the case may be.

**Section 4.5. Notices.** All notices required to be given or authorized to be given by each party pursuant to this Agreement shall be in writing and shall be sent by registered or certified mail (as well as by facsimile, in the case of the Trustee) addressed to, in the case of the I-Bank, 3131 Princeton Pike, Building 4 Suite 216, Lawrenceville, New Jersey 08648 (Attention: Executive Director); in the case of the Trustee, its Corporate Trust Department at 401 Liberty Avenue, Suite 1729, Pittsburgh, Pennsylvania 15222 (facsimile: (855) 850-0865); and in the case of the Master Program Trustee, its Corporate Trust Department at 100 Wall Street, Suite 1600, New York, New York 10005.

**Section 4.6. Assignments.** This Agreement may not be assigned by any party without the consent of the others and, as a condition to any such assignment, only upon the assumption in writing of all of the obligations imposed upon such party by this Agreement.

**Section 4.7. Severability.** If any provision of this Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatsoever.

**Section 4.8. Execution in Counterparts.** This Agreement 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. Each party hereto may sign the same counterpart or each party hereto may sign a separate counterpart.

**Section 4.9. Amendments, Changes and Modifications.** (a) Except as otherwise provided in this Agreement, subsequent to the initial issuance of the Bonds and prior to their payment in full (or provision for payment thereof having been made in accordance with the provisions of the Trust Indenture), this Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the parties hereto.

(b) Without the consent of any Bondholders, the I-Bank, the Trustee and the Master Program Trustee at any time and from time to time may enter into any amendments or modifications to this Agreement for any of the following purposes:

(i) to add to the covenants and agreements of the I-Bank hereunder for the benefit of the Bondholders, or to surrender any right or power conferred upon the I-Bank by this Agreement;

(ii) to modify the contents, presentation and format of the Annual Report from time to time to conform to changes in accounting or disclosure principles or practices or legal requirements followed by or applicable to the I-Bank or the Program, to reflect changes in the identity, nature or status of the I-Bank or the Program or in the business, structure or operations of the I-Bank or the Program, or to reflect any mergers, consolidations, acquisitions or dispositions made by or affecting the I-Bank or the Program; *provided*, that any such modification shall not be in contravention of Rule 15c2-12 as then in effect at the time of such modification; or

(iii) to cure any ambiguity herein, to correct or supplement any provision hereof that may be inconsistent with any other provision hereof, or to include any other provisions with respect to matters or questions arising under this Agreement, any of which, in each case, would have complied with the requirements of Rule 15c2-12 at the time of the primary offering, after taking into account any amendments or interpretations of Rule 15c2-12 as well as any changes in circumstances;

*provided*, that prior to approving any such amendment or modification, the Trustee, in reliance upon an opinion of Bond Counsel (as defined in the Trust Indenture) to the I-Bank, determines that such amendment or modification does not adversely affect the interests of the Bondholders in any material respect.

(c) Upon entering into any amendment or modification required or permitted by this Agreement that materially affects the interests of the Bondholders, the I-Bank shall deliver to each of the Repositories written notice of any such amendment or modification.

(d) The I-Bank, the Trustee and the Master Program Trustee shall be entitled to rely exclusively upon an opinion of Bond Counsel to the I-Bank to the effect that such amendments or modifications comply with the conditions and provisions of this Section 4.9.

**Section 4.10. Amendments Required by Rule 15c2-12.** The I-Bank, the Trustee and the Master Program Trustee each recognize that the provisions of this Agreement are intended to enable compliance with Rule 15c2-12. If, as a result of a change in Rule 15c2-12 or in the interpretation thereof or the promulgation of a successor rule, statute or regulation thereto, a change in this Agreement shall be permitted or necessary to assure continued compliance with Rule 15c2-12 and upon delivery of an opinion of Bond Counsel to the I-Bank addressed to the I-Bank, the Trustee and the Master Program Trustee to the effect that such amendments shall be permitted or necessary to assure continued compliance with Rule 15c2-12 as so amended or interpreted, then the I-Bank, the Trustee and the Master Program Trustee shall amend this Agreement to comply with and be bound by any such amendment to the extent necessary or desirable to assure compliance with the provisions of Rule 15c2-12 and shall provide written notice of such amendment as required by Section 4.9(c) hereof.

**Section 4.11. Governing Law.** This Agreement shall be governed exclusively by and construed in accordance with the laws of the State and the laws of the United States of America, as applicable.

**Section 4.12. Commencement and Termination of Continuing Disclosure Obligations.** The obligations of the I-Bank and the Trustee hereunder and the consent of the Master Program Trustee set forth in Section 2.6 hereof shall be in full force and effect from the date of issuance of the Bonds, and shall continue in effect until the date either (i) the Bonds are no longer outstanding in accordance with the terms of the Trust Indenture or (ii) the Program no longer remains a material "obligated person" (as the term "obligated person" is defined in Rule 15c2-12) as a result of an interpretation of Rule 15c2-12, and, in the case of clause (ii), only after the I-Bank delivers written notice to such effect to each National Repository or to the MSRB and the State Depository, if any.

**Section 4.13. Prior Undertakings.** Other than as disclosed in the Official Statement, the I-Bank has not failed to comply in any material respect with any prior continuing disclosure undertaking made by the I-Bank in accordance with Rule 15c2-12.

**Section 4.14. Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the I-Bank, the Trustee and the Master Program Trustee and their respective successors and assigns.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**

**IN WITNESS WHEREOF**, NEW JERSEY INFRASTRUCTURE BANK, [TRUSTEE] and U.S. BANK TRUST NATIONAL ASSOCIATION, a national banking association, have caused this Agreement to be executed in their respective names, all as of the date first above written.

**NEW JERSEY INFRASTRUCTURE BANK**

**By:** \_\_\_\_\_

Robert A. Briant, Jr.

**Chairperson**

**[TRUSTEE],  
as Trustee**

**By:** \_\_\_\_\_

**Vice President**

**U.S. BANK TRUST  
NATIONAL ASSOCIATION,  
a national banking association,  
as Master Program Trustee**

**By:** \_\_\_\_\_

**Name:**

**Title:**

## **EXHIBIT A**

### **OBJECTIVE CRITERIA AS SET FORTH IN THE FINAL OFFICIAL STATEMENT**

#### **SECONDARY MARKET DISCLOSURE**

In connection with the provisions of Rule 15c2-12, as amended, supplemented and officially interpreted from time to time, or any successor provision thereto, promulgated by the Securities and Exchange Commission (the “SEC”) pursuant to the Securities Exchange Act of 1934, as amended (“Rule 15c2-12”), the I-Bank has determined that, with regard to the Bonds, it is not an “obligated person”, as defined therein.

Furthermore, the I-Bank has determined in the Trust Indenture that those Borrowers (from any Financing Program) whose remaining Fund Loan repayments in all Coverage Providing Financing Programs, when aggregated with their I-Bank Loan repayments, if any, exceed ten percent (10%) of the sum of (i) the aggregate of all remaining Fund Loan repayments from all Borrowers in all Coverage Providing Financing Programs and (ii) the aggregate of all remaining I-Bank Loan repayments from all Borrowers, shall be considered material “obligated persons” within the meaning and for the purposes of Rule 15c2-12 for the Bonds. To the extent any such Borrowers have entered into Borrower Service Agreements with Participants and any such Participants have entered into Indirect Borrower Service Agreements with Indirect Participants whereby Annual Charges or Indirect Annual Charges, as the case may be, materially secure such Loan repayments of any such Borrower, any such Participants and Indirect Participants also shall be considered material “obligated persons” within the meaning and for the purposes of Rule 15c2-12 for the Bonds.

Each Borrower has covenanted in its I-Bank Loan Agreement, for the benefit of the respective Bondholders, to enter into a Borrower Continuing Disclosure Agreement (the “Borrower Continuing Disclosure Agreement”) should it meet, at any time during the term of its respective I-Bank Loan, the material “obligated persons” test referred to above. Such Borrower Continuing Disclosure Agreement obligates any such Borrower to provide (i) certain financial information and operating data relating to such Borrower and the Participants and Indirect Participants, if any, of such Borrower, including, without limitation, audited financial statements, within 225 days after the end of each fiscal year for which any such Borrower Continuing Disclosure Agreement is in effect (the “Annual Report”), and (ii) notice to the I-Bank of the occurrence of certain enumerated events, if material. The specific nature of the information to be contained in the Annual Report and the notices of material events is summarized in Appendix F to the Final Official Statement – “SUMMARY OF THE SERIES 20\_\_ I-BANK LOAN AGREEMENTS (INCLUDING THE CONTINUING DISCLOSURE AGREEMENTS FOR THE SERIES 20\_\_ BORROWERS), THE SERIES 20\_\_ FUND LOAN AGREEMENTS AND THE OTHER COVERAGE PROVIDING FUND LOAN AGREEMENTS.”

The Borrower Continuing Disclosure Agreement further requires that the Annual Report shall be delivered by or on behalf of such Borrower to each Nationally Recognized Municipal Securities Information Repository recognized by the SEC (each a “NRMSIR”) and to the State Information Depository recognized by the SEC (the “SID”), if any. Notices of material events relating to the I-Bank Loan Bonds of such Borrower will be filed by such Borrower with the I-



Bank, and the notices of material events relating to the Series 20\_\_ Bonds will be filed directly by the I-Bank with each NRMSIR or with the Municipal Securities Rulemaking Board (the “MSRB”) and the SID, if any. As of the date of this Official Statement, the filing of any information with the Electronic Municipal Market Access facility for municipal securities disclosure of the MSRB shall satisfy the requirement to file such information with each NRMSIR. The obligations under the Borrower Continuing Disclosure Agreement shall continue through final maturity (stated or otherwise) of the Bonds, but shall terminate when any such material “obligated persons” shall no longer meet the material “obligated persons” test with respect to the Bonds. The I-Bank shall have no liability to the Bondholders or to any other person with respect to the secondary market disclosure of any such material “obligated persons.” See Appendix F to the Final Official Statement – “SUMMARY OF THE SERIES 20\_\_ I-BANK LOAN AGREEMENTS (INCLUDING THE CONTINUING DISCLOSURE AGREEMENTS FOR THE SERIES 20\_\_ BORROWERS), THE SERIES 20\_\_ FUND LOAN AGREEMENTS AND THE OTHER COVERAGE PROVIDING FUND LOAN AGREEMENTS”.

In light of the additional security provided for each series of the Bonds as a Coverage Receiving Financing Program (along with the current and all future Coverage Receiving Financing Programs) through certain Fund Loan repayments in Coverage Providing Financing Programs, the I-Bank has determined that only the Borrowers, Participants and Indirect Participants identified in the immediately succeeding paragraph (if any) will be considered material “obligated persons” within the meaning and for the purposes of Rule 15c2-12 for the Bonds. With respect to all other Borrowers, Participants and Indirect Participants, the I-Bank has determined that no financial or operating data is material to any decision to purchase, hold or sell the Bonds, and the I-Bank will not itself provide or cause any such Borrowers, Participants and Indirect Participants to provide any such information with respect to any such Borrowers, Participants and Indirect Participants.

As of the date of issuance of the Bonds, there are no Borrowers that meet this material “obligated persons” test for the Bonds. In addition, as of such issuance, no Participants or Indirect Participants meet this test with respect to the Bonds.

Based upon official interpretations of Rule 15c2-12, the I-Bank has determined that, in connection with the Bonds, the Series 20\_\_ Financing Program relating to the Bonds is an “obligated person”, as defined in Rule 15c2-12. In addition, on the date of delivery of the Bonds, the I-Bank will enter into a I-Bank Continuing Disclosure Agreement (the “I-Bank Continuing Disclosure Agreement”; the Borrower Continuing Disclosure Agreement and the I-Bank Continuing Disclosure Agreement shall be referred to collectively herein as the “Continuing Disclosure Agreements”), for the benefit of the beneficial owners of the Bonds, pursuant to which the I-Bank will agree to comply on a continual basis with the disclosure requirements of Rule 15c2-12 relating to the Bonds. Specifically, the I-Bank will covenant to provide certain financial information relating to the Series 20\_\_ Financing Program relating to the Bonds, which financial information will be similar to that provided herein in Note 8 to Appendix A to the Final Official Statement, relating to each existing and future Coverage Providing Financing Program (the “Financing Program Annual Report”) to each NRMSIR and the SID, if any. In addition, the I-Bank will covenant to provide notices of the occurrence of certain enumerated events, if material, relating to the Bonds to each NRMSIR or to the MSRB and the SID, if any. As of the date of this Official Statement, the filing of any information with the Electronic Municipal Market Access facility for municipal securities disclosure of the MSRB shall satisfy the requirement to file such information with each NRMSIR. The specific nature of the information to be contained in the

Annual Report and the notices of material events is summarized in Appendix E to the Final Official Statement – “SUMMARY OF THE SERIES 20\_\_ INDENTURE OF TRUST, THE MASTER PROGRAM TRUST AGREEMENT AND THE I-BANK CONTINUING DISCLOSURE AGREEMENT.”

The sole and exclusive remedy for breach of or default under the Continuing Disclosure Agreements to provide continuing disclosure as described above is an action to compel specific performance of the Continuing Disclosure Agreements by the parties thereto, and no person, including any holder of the Bonds, may recover monetary damages thereunder under any circumstances. In addition, if all or any part of Rule 15c2-12 ceases to be in effect for any reason, then the information required to be provided under the Continuing Disclosure Agreements, insofar as the provision of Rule 15c2-12 no longer in effect required the providing of such information, shall no longer be required to be provided. The Continuing Disclosure Agreements also may be amended or modified without the consent of the holders of the Bonds under certain circumstances set forth therein. Copies of the Continuing Disclosure Agreements when executed by the parties thereto upon the delivery of the Bonds will be on file at the office of the Trustee.

## EXHIBIT B

### FORM OF NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT

Name Reporting Party: New Jersey Infrastructure Bank

Name of Bond Issue: New Jersey Infrastructure Bank "[Bonds]" dated [date]

Date of Issuance: [date]

CUSIP Numbers:

**NOTICE IS HEREBY GIVEN** that the New Jersey Infrastructure Bank (the "Bank") has not provided an Annual Report with respect to the above-named Bonds as required by the "I-Bank Continuing Disclosure Agreement" dated as of [date] by and among the I-Bank, [Trustee], as Trustee, and U.S. Bank Trust National Association, a national banking association, as Master Program Trustee. [The I-Bank has advised the Trustee that it anticipates that the Annual Report will be filed by \_\_\_\_\_.]

\_\_\_\_\_,  
**as Trustee**

**By:** \_\_\_\_\_  
**Name:**  
**Title:**

Dated: \_\_\_\_\_

**SCHEDULE A-1**

**Municipal Local Government Borrowers**

**SCHEDULE A-2**

**Authority Local Government Borrowers**

**SCHEDULE A-3**

**Public Water Utility Borrowers**

## **SCHEDULE I**

### **The Allocable Share for Each Borrower**

## SCHEDULE II

### Series 202[ ] Financing Program WIFIA Bonds: Procedures Regarding the Payment of Principal, Redemption Price and Interest

## HOW TO MAKE A LOAN PAYMENT TO EPA WIFIA PROGRAM

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

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

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

Email: [OCFO-OC-ACAD-WIFIA@epa.gov](mailto:OCFO-OC-ACAD-WIFIA@epa.gov)

#### **For questions about the WIFIA program:**

Email: [wifia@epa.gov](mailto:wifia@epa.gov)

## ACCEPTABLE METHODS FOR WIFIA PAYMENTS TO EPA

### OPTION 1 PAY.GOV

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

Remove Debit Block - Before submitting payments through Pay.gov, users should contact their financial institution to remove any debit blocks and add EPA to the list of payees. In addition, the financial institution will need to add EPA's company ID (6801123303) for WIFIA fees. Once the financial institution removes the debit block and sets up the company ID, users can set up Pay.gov to submit payments.

Access the Pay.gov system by going to <https://www.pay.gov> and search for WIFIA or click on the following hyperlink to directly launch the [WIFIA Loan Collection & Fees Form](#).

Provide the following information on your payment to ensure proper credit:

- Remitter's contact phone number
- Company/Organization Name as it appears on EPA document
- Complete address, including city, state, zip code
- Project Name
- Loan Number: this is EPA WIFIA Loan number, NOT the remitter's number



- From the "Payment Type" drop down menu select "**Loan Payment**"

Follow the remaining on-screen instructions to successfully process the payment to EPA.

Send an email to [OCFO-OC-ACAD-WIFIA@epa.gov](mailto:OCFO-OC-ACAD-WIFIA@epa.gov) and [wifia\\_portfolio@epa.gov](mailto:wifia_portfolio@epa.gov) informing that a payment has been made.

## **OPTION 2 FEDWIRE**

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

### **FEDWIRE**

To process a payment using FedWire please:

1. Send FedWire deposits as early as possible and no later than 5PM ET on the desired EPA receipt date.
2. Review the FedWire form Instructions provided in Attachment 1 and complete the form. It is very important that all relevant details identified in the instructions are accurate.

Send an email to [OCFO-OC-ACAD-WIFIA@epa.gov](mailto:OCFO-OC-ACAD-WIFIA@epa.gov) and [wifia\\_portfolio@epa.gov](mailto:wifia_portfolio@epa.gov) informing that a payment has been made.

## Attachment 1 – FedWire Payment Form and Instructions

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

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

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

### Agency Contact:

Collections Inquiry Mailbox  
 US Environmental Protection Agency  
 Office of the Controller  
 Fees and Collections Branch  
[Collections\\_Inquiry\\_Mailbox@epa.gov](mailto:Collections_Inquiry_Mailbox@epa.gov)

## **SCHEDULE III**

### **Allocation of Draws from the Default Rate Debt Service Reserve Fund**