

# **TOWN MEETING**

**615 East Main Street  
Thurmont, Maryland**

**7:00 P.M**

**JUNE 23, 2015**

- 1. PLEDGE OF ALLEGIANCE**
- 2. APPROVAL OF 6/16/15 MEETING MINUTES**
- 3. ADOPTION OF ORDINANCE – 2015-03 – THURMONT SEWER PROJECT – PHASE III**
- 4. BID APPROVAL – ROOF REPLACEMENT – WELL #3 & #4**
- 5. DISCUSSION ITEM – ELECTRIC DISTRIBUTION SYSTEM STUDY AND PROPOSAL**
- 6. COMMISSIONERS' COMMENTS**
  - a. Commissioner Buehrer**
  - b. Commissioner Hooper**
  - c. Commissioner Hamrick**
  - d. Commissioner Burns**
  - e. Jim Humerick**
  - f. Mayor Kinnaird**
- 7. PUBLIC COMMENTS**

**Additional Information**

## **Minutes from June 23, 2015 Town Meeting**

A Town Meeting of the Thurmont Board of Commissioners was held on Tuesday, June 23, 2015 at 7:00 p.m. The following were present: Mayor Kinnaird, Commissioners Buehrer, Hooper, Hamrick and Burns; CAO, Jim Humerick; Sr. Administrative Officer, Becky Long; Ed Waters (FNP), Dick Lee, Bill Blakeslee, Ginger Malone (Civitan), Mary Disalvo, Nancy Shaffer and Jim Wilkins.

Commissioner Buehrer led the Pledge of Allegiance.

### **Approval of 6/16/15 Meeting Minutes**

Commissioner Burns made a request to change how Commissioner Hamrick's abstained vote for the approval of the 6/9/15 meeting minutes is shown. (Change made.)

Commissioner Hamrick made a motion to approve the 6/16/15 meeting minutes with the change requested. Commissioner Hooper seconded the motion. Vote – 5-0-0, motion carried.

### **Adoption of Ordinance – 2015-03 – Thurmont Sewer Project – Phase III**

Mayor Kinnaird read into record the pertinent portions of the 965 page document (see attached). This is the General Obligation Bond that will be known as the Town of Thurmont Water Quality Bond Series 2015, the Bond. The principle amount not to exceed \$2,600,000.00, for the purpose of providing a portion of the funds necessary to finance and refinance to cost of improvements to the Town of Thurmont Wastewater Treatment System, The Project. Mayor Kinnaird said this was introduced at the meeting last week and copies were made available for the public to review. This is basically the authority for us to borrow the money from the State of Maryland to do Phase III of the improvement plan for the Wastewater Treatment System. Mayor Kinnaird asked if the Board had any questions or comments.

Commissioner Hamrick asked if the majority of this was a template, because it seems to have a lot of redundancy and fill in the blank. So it's just standardized and doesn't leave us open to any mistakes. Mayor Kinnaird said yes, we have a Bond Council and they have reviewed it. The Bond Council specializes in bonds. Jim Humerick said this is the same Bond Council who came in and did the refinancing. Commissioner Hamrick asked if there was a prepayment penalty. Mr. Humerick said you can prepay to a certain extent.

Mayor Kinnaird asked if there was any public comment. There was none.

Commissioner Burns asked when the contractor would be starting on this. Mr. Humerick said they should be starting in 2-3 weeks. Commissioner Burns then asked if they had to finish the entire job before the sidewalks can be finished. Mayor Kinnaird said no, they would begin with the N. Church Street section and once that portion is complete the State will come back to finish the sidewalks.

Commissioner Burns made a motion to adopt Ordinance 2015-03. Commissioner Hooper seconded the motion. Vote – 5-0-0, motion carried.

### **Bid Approval – Roof Replacement – Well #3 & #4**

Jim Humerick stated that \$10k was budgeted in FY15 for the roof replacement of Well #3, but since then the roof on Well #4 has deteriorated significantly. Per direction of the Board during the FY16 budget discussions, both roofs were bid for replacement in FY15 instead of deferring the projects to FY16. There were four vendors contacted and we received bids from two and two did not reply (see attached bid comparisons). We are recommending that you go with Green Brothers Construction with a bid of \$10,460.00, even though they were not the low bidder. Their bid included a proposal to install a TPO rubberized membrane roof for Well 4, which is desired due to the low pitch. They also specified replacing the plywood sheeting on Well 4, as well as repairing the damage to the siding on Well 3. The bid from Delphrey Construction of \$10,125.00, did not include the before mentioned items.

Commissioner Burns asked if these items were specifications in the bid. Mr. Humerick said in the bid they had asked for a bid to replace the roofs at what their best scenario would be to and what would be in the best interest to them and us. And Green Brothers recommended the rubberized membrane. Commissioner Burns said that if there is a low pitch that is correct, from past personal experience and it is usually considerably more for a membraned roof than it is for a typical asphalt shingled roof.

Commissioner Hamrick asked what the life expectancy was for this type of roof. Mr. Humerick said it was 25 years. Mayor Kinnaird said the wind damage to the siding is what needed repaired on Well 3.

Commissioner Hamrick made a motion to award Green Brothers Construction the roof replacement of Well #3 and Well #4 in the amount of \$10,460. Commissioner Buehrer seconded the motion. Commissioner Burns asked if the other bidder offered any extra that wasn't listed there. Mr. Humerick said no, they didn't. Commissioner Burns then asked how much was budgeted for this. Mayor Kinnaird said \$10k. Mr. Humerick said, but that was just for one roof and this bid is for two.

Vote – 5-0-0, motion carried.

### **Discussion Item – Electric Distribution System Study and Proposal**

Mayor Kinnaird said this is a proposal for Downes Associates Inc. to do a comprehensive study of the Thurmont Electrical System (see attached). We have talked about some changes that we would like to see. We are in the process of completing one loop circuit now at Catocin Heights and some other issues.

Jim Humerick stated that this came about when he had talked to Downes Associates concerning the engineering study for the relocation of the Main Street Substation. As they talked they determined that there were some other things they should take a look at to make sure we are doing the right things in the right order as far as the Main Street Substation. And the more they spoke the more they thought a proposal for a more detailed analysis of our electrical service would be more prudent and a better use of our money at this point in time. Mr. Humerick then went over the Basic Services in the Proposal. Downes Associates Inc. proposes to complete the study at a cost of \$38k. He stated that at this time

there is \$25k escrowed for the engineering of the Main Street Substation. Downes is willing to evaluate this proposal with us and take some things off to try and get the cost down to that budgeted price.

Mayor Kinnaird said that over the winter during an outage that impacted a good portion of the Town and we were able to electrify the majority of the Town using the E. Main Street Substation. During that time he spoke with some personnel from Potomac Edison and one of the engineers commented that was fed from Hagerstown, so our E. Main Street Substation isn't fed from the Moser Road Potomac Edison Substation. He said they have talked about at some point needing a third transformer on the Moser Road Substation that would eliminate the E. Main Street Substation, as long as Potomac Edison feeds the E. Main Street Substation from a different system than the Moser Road Substation. So, his thoughts are they should keep that active and at some point improve that Substation with a replacement transformer. Commissioner Burns said this was redundant and it is a separate circuit. Mayor Kinnaird said it was and it had surprised him when he heard it. He thought that if they were going to do something like this, they could utilize some of the money they had escrowed for this to do the study, if they decide to do the study. And that's part of what he would like them to investigate for us, of course that only works if Potomac Edison doesn't change the routing of their service. We have spent a considerable amount of money to give us a backup feed into our Substation on Moser Road, so we have an underground and an above ground circuit in there now. That Substation has failed before and the E. Main Street Substation was able to power portions of the Town. His understanding is that could power the Town with the addition of a couple of switches. To do this study would investigate what we could do or not do with that Substation.

Commissioner Hooper agrees that if they can fall back on that Substation and especially if it can handle a lot of the industrial section. And he thinks they need to have this done. Commissioner Burns said this is what he wanted to use the GIS for in layers. As long as some of these things are used to identify pole size, age, weight bearing, the loads of the wires, the age of the wires and the life expectancy. And he doesn't know, but hopes it would capture this so we can start mapping it in GIS. So in the future we will be able to start putting money back knowing that in this many years we will need to replace that wire. He said some of the items on the proposal are pretty broad and he would want to know the specifics, to see if they could incorporate GIS or were they going to already incorporate GIS into this Study. We need to capture this and if they are going to do this detailed of a study, he thinks it would be fairly easy to capture that data and then have our Staff put it into the GIS. So that we capture all of that data and put the electrical layer in our GIS program.

Mayor Kinnaird said that #6, provide overall analysis of system and age of infrastructure, he doesn't know how much detail is in that, but that would be a very good question. Commissioner Burns said he doesn't recall the last time they specifically replace an electric line other than the one on Frederick Road and what an expense that would be if they all failed at the same time due to age. Mayor Kinnaird said that a surprising number of the large lines don't have insulation on them.

Mr. Humerick said if there are any specific items that they want in the study, that this is a proposal, so we could go back to them and say we would like to see these items in the study or in place of something. Mayor Kinnaird asked the Commissioners to look over the proposal and make a list of ideas



they have. Commissioner Burns would like to set an agenda item to specifically discuss this in August. Commissioner Hooper said that he would like to have Butch West and Gary West at that meeting also.

Commissioner Hamrick said #10, about their maintenance practices, doesn't OSHA already mandate operating practices for maintenance. Mr. Humerick said only for safety. Commissioner Hamrick then asked if there was any standard operating procedure out there that we would require them to do a maintenance practice with us. Commissioner Burns said what he thinks is that because Downs are the experts, they know what the SOP for electric companies should be, whether they are Municipalities or not. And they will be able to tell us what we should be doing, not only from a safety stand point.

Mayor Kinnaird asked Mr. Humerick to set this as an agenda item for the first meeting when they come back from their hiatus. Mr. Humerick said this proposal was only good for a month, but doesn't think that would be an issue since they were going to add things and change it anyway. Commissioner Burns asked if Downs could tell them in their opinion, what their top items would be in order, so that would help him to see what they think is the most critical for the Town of Thurmont. Mayor Kinnaird said he thinks they are in that order already. Commissioner Buehrer agreed. Commissioner Burns said he wondered if there was a way that Downes could project and tell us, if a development were to come to Thurmont in the future, what the projected load growth on that wire would be and if it could be calculated and charged to the development. In other words, that line should last this long at this load and if there is a bigger demand... He then said no, that he thinks the Public Service Commission would say they're a customer and you have to provide it. He was hoping that you could almost say, well if you are going to come in, you are going to impact us in a negative way, so we are going to charge you an impact fee and I don't think.... He then said, sorry he talked himself out of it, but it was a good thought.

Mayor Kinnaird said they have talked about this before, they do have a redundancy in the system and discussing at what point that redundancy would not cover us. He thinks that would be valuable information for them to have, so we know what direction to go in with the Main Street Substation eventually and the one down on Moser Road. Commissioner Burns asked if they could shift where the fuses actually are, are they in the right places throughout town to give us the maximum protection. Mayor Kinnaird said that was part of what they would actually look at. Commissioner Buehrer said he thought items #4 & #5 answers Commissioner Burns question. Commissioner Hamrick said item #7 also. Commissioner Burns said that is what he meant by specificity, he said he thinks these will cover this, but he's not sure. Mayor Kinnaird asked Mr. Humerick again to set this as an agenda item on the first meeting back and to invite Butch and Gary to the meeting.

### **Commissioner Comments**

Commissioner Buehrer:

- Reminder that the Board voted to begin accepting yard waste in paper bags only beginning August 1<sup>st</sup>. He encourages everyone to begin now, to get in the habit. Mayor Kinnaird added that yard waste is not to be set out at the curb until 6 p.m. the day before it is to be picked up.
- Saturday was the second week for our Farmer's Market and it was excellent, everyone has noticed that we have changed the location to the Municipal Parking Lot on Center St., the

vendors doubled to 8 this week. Commissioner Burns asked if they could list what is being sold there. Mayor Kinnaird said we could possibly do that on the Town's Facebook page.

- Please keep Governor Hogan and his family in your prayers, he has been diagnosed with an aggressive kind of cancer and they are going thru some tough times.

Commissioner Hooper:

- July 26<sup>th</sup> is the next concert with the Westminster Municipal Band
- Encourages the public to come out and support the Fire Company at their carnival
- Thanked Mr. Ed Waters for the job he has done in covering the news for the Town of Thurmont, he will be retiring at the end of this month

Commissioner Hamrick:

- Reminder that Thursday at 7 p.m. here at the Municipal Offices, the Planning and Zoning Commission will be meeting to discuss a couple of properties, one of them being the Delauter property on S. Carroll St. Ext.
- Reminder the CYA Football Fun and Fitness Day, July 11<sup>th</sup> from 11 a.m. – 3 p.m. at Eyler Road Park on Eyler Road. They are having a fitness challenge, men vs. women. Also they are having a Punt, Pass and Kick challenge, which costs \$10 per entry.
- Thurmont Police Department has issued a notice regarding SCAMS. Most recent there is one about the IRS calling saying you owe money. Don't ever provide any personal information to solicitors and do not send them any money. If you do get contacted, please report it to the Thurmont Police Department.

Commissioner Burns:

- Thurmont Senior Center has a Music & Dance coming up on June 27<sup>th</sup> with a performance by Kevin Booth. Also they have Bingo on the 1<sup>st</sup> and 3<sup>rd</sup> Wednesdays each month at 1 p.m. and on the 2<sup>nd</sup> Saturday of each month they are having a Community Yard Sale and the Public can pay \$10 to get a spot to set up and sell their wares. For more information please call Teresa Kempisty at 301-271-7911.
- Thanked County Exec. Gardner again for her meeting at the Thurmont Library. She wanted to let Dick Lee and the Jermae Community know that as soon as Miss Utility clears them to go ahead, the County will be installing 25 mph signs on the County side of Moser Road. She still hasn't given a clear answer concerning the waiver to allow ambulances to go over the bridge.
- Asked Jim Humerick for the contact information concerning the Railroad Bridge. He wants to start investigating redoing the façade on the cement and painting the bridge. Also, he would like to either restore the wrought iron archway connecting the two pillars at the entrance to Memorial Park to its original form, if it was there to start with or ask the AMVETS if they would consider allowing the Town to put one up to enhance the Park.
- Asked if they were going to pursue purchasing other banners for different occasions to put on the new light posts. Mayor Kinnaird said they could look into that.

- Mentioned that maybe they could consider putting additional benches around Town.

Mayor Kinnaird:

- Thanked Ed Waters for his service to the Thurmont Community and wished him good luck in his endeavors after he leaves the FNP. They are losing a quality writer. Commissioner Burns said he was not only a quality writer; he is a quality person, Semper Fi and all the best to you.
- Attended the “Meet the Chief” night last Wednesday, there was a turnout, not as many as you would like to see at these things. The topic was “In Custody Deaths”. Basically everyone is pleased at the steps Chief Eyler is taking in writing a policy and being proactive in planning for this type of a situation, which we hope will never be an issue here with us. Thanked the Chief and everyone who came out and participated in the discussion.
- Farmers Market is doing real well, had a great turn out and there are some new vendors with a wide range of things.
- A Solicitors License is required to solicit in the Town of Thurmont, whether you are selling something or seeking donations. If you are a group or organization, each individual person needs a license. If someone comes to your door soliciting, please ask to see their Thurmont Solicitors License, if they don’t have one, kindly ask them to go get one. Solicitor Licenses are available at the Thurmont Police Department from 9 a.m. – 4 p.m. Monday – Friday. The hours of solicitation are between 8 a.m. and 6 p.m.
- All the new street lights that have been put in on East Main, West Main and North Church Street are now on and look fantastic. He thanked the Crews for the great job and getting them installed. He has had nothing but good comments about them, except that they are too bright.
- July 12<sup>th</sup>, Thurmont Regional Library at 76 Moser Rd will host “Music on the Deck” at 2 p.m. with music from Paul and Mary. On August 23<sup>rd</sup> at 2 p.m., they will host Patty & Brent.

### **Public Comments**

Mary Disalvo asked why the benches at Memorial Park face the road rather than the events that are going on in the park. Jim Humerick said the reason was because there are not events that go on in the park every day but there are people who walk on the sidewalk every day, so we thought they could use them as a place to rest.

Dick Lee stated that any time you can loop your electric service it may cost you a little money but it will save you time in restoration and it eases your load coming back. So, when the study comes back and you see some expenses on looping, it may be well worth doing it. Your Crews will tell you that also, if you ask them. Concerning Commissioner Burns question about the money, if a development coming in can you upgrade, #1 you are going to get revenue from the units coming in that you were not getting before, #2 if they do a bond correctly, they are going to build the amount of units that you built for and if they don’t you can keep the money for the bond and that goes back to your utility cost. That is just his recommendation, to cover yourselves with no time limit or agree that it has to be built in a certain time and if they don’t finish in that time you keep the bond and you cover your expenses on the utility. He stated they did that many times at BGE with the contractors. They either came up with a presentation

to pay for some of it or they got a bond and had to produce the revenue coming out of the houses. Mr. Lee said that the Jermae Community is pleased with the 25 mph speed limit on Moser Road. He stated that the low turnout for the "Meet the Chief" night could be because the TPD is doing a good job. And that goes the same with the Board, there usually aren't many at these meeting either.

Ginger Malone, president of the Catoctin Area Civitan Club, said the club is interested in getting land to provide a handicap accessible playground. She wanted to know if there is any land behind the Police Station that they could get. They would like to put in a wheelchair swing, so these children can experience the feeling of flying. They would like to give these children the same opportunities that other children have. Commissioner Burns said that is an extremely good idea and doesn't know why that hasn't been brought to their attention before. He asked that the Board be given time to talk about this. There is POS grant funding and we may be able to find land somewhere, maybe even at the Community Park. Ms. Malone said there is a convention coming up, where she could ask for a grant to get started. Commissioner Burns said they would like to be able to identify certain areas where we think could be used for that. Then you can take it back to your organization and see if these are good, bad or indifferent. Then come back to us and let us know and we can collectively find the best solution for everyone.

Ms. Malone said they are a volunteer organization and have done jobs for the Senior Center and they would like to find others to help and it doesn't have to be a handicapped individual, it can be anyone. So if they know of anyone, please let them know. Also, she had emailed someone about painting the tennis court wall in the Town Park, to give the organization something to do for the community. They would like something positive to do.

Commissioner Hamrick asked if the swing would be for both children and adults. Ms. Malone said she thought it was for children but could be expanded later. Commissioner Burns asked if they could give the Board an idea of what size area they are looking for, so they could find areas that will work. Ms. Malone said she could get that information to them at their meeting the beginning of August. Commissioner Buehrer asked if this was normally integrated into a present playground equipment setting like we have at the Community Park or is it separate. Ms. Malone said it could be either. But they would like to see it added to an existing playground so the non-special needs could interact with the special needs in the same area. The reason he asked the question was, because it's the same thing with the school system where they are trying to migrate those who are less fortunate and challenged into the mainstream. Does that mentality apply? It does. Commissioner Buehrer stated that he is very involved with the Alzheimer's Association and they had talked earlier in the year about a walking trail within Community Park and there are some stations there for precise disciplines for exercise. There are also some that are designed for what Ms. Malone is talking about and also for those suffering with Alzheimer's. So we might be thinking about the same lines even if someone is wheelchair bound that does not prohibit them from using the trail, because the trail is paved. Ms. Malone said that some of the stations do have chair lifts. She said that at the Town Park if they could move the fence over some where the playground equipment is now, they could put the swing there. Mayor Kinnaird asked that they be given what the accessibility requirements would be for this.

Mayor Kinnaird wanted to remind everyone that they would not be having a meeting for at least the next four weeks, possibly longer. If an issue arises that they need to meet, they will announce the meeting and have it at the regularly scheduled time. We generally take off the month of July for vacation and we have the MML Convention coming up next weekend. We will meet the next time probably in August, unless something comes up before then. He thanked everyone for being here tonight and hopes everyone has a pleasant month. Commissioner Hamrick said see you at the carnival. Mayor Kinnaird said he was sure they would be there every night to support the Guardian Hose Company and they are all going to be in the parade. Commissioner Buehrer said he would not be able to be there.

Commissioner Hamrick made a motion to adjourn. Commissioner Hooper seconded the motion.  
Vote – 5-0-0, motion carried.

Without further discussion the meeting adjourned at 8:10 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. Clem', with a long horizontal line extending to the right.

Robin Clem  
Recording Secretary

## BID COMPARISONS

**Roof Replacements – Well #3 and Well #4.** *Note - \$10,000 budgeted in FY15 for replacement of Well 3 roof alone. Well 4 roof deteriorated significantly since that submission. Per direction of BOC during FY16 budget discussions, both roofs were bid for replacement in FY15 instead of deferring projects to FY16.*

Vendor	Bid Amount	Comments
Green Brothers Construction	\$10,460.00	High quality workmanship, ability to work within our specified timeframe, high quality work on previous contracts. Green Brothers proposes a TPO rubberized membrane roof for Well 4 which is desired due to the low pitch. Green Brothers also specifies replacing the plywood sheeting on Well 4 roof, along with repair of damaged siding on Well 3. These items were not included in other bid. <b>Recommended Vendor</b>
Delphey Construction	\$10,125.00	Low bidder but proposal does not include items mentioned above.
Luke Humerick	No bid	Contractor contacted but did not submit a bid.
David Seiss Construction	No bid	Contractor contacted but did not submit a bid.



**DOWNES ASSOCIATES INC**  
Engineering & Management Consultants

June 16, 2015

Mr. James Humerick  
Chief Administrative Officer  
Town of Thurmont  
615 E. Main Street  
Thurmont, MD 21788

Dear Jim:

Subject: Proposal for Electric Distribution System Study

Downes Associates, Inc. ("DAI") is appreciative of the opportunity to prepare this proposal for engineering services required to provide the Town of Thurmont with a comprehensive evaluation of the 12.47 kV electric distribution system and 34.5/12.47 kV substation facilities.

**Materials Required**

The DAI proposal is based on the Town of Thurmont furnishing the following items to DAI:

1. Historic detailed outage records identifying circuit number, location of outage, nature of outage, duration of outage, and number of customers effected by outage.
2. Current zoning as well as future growth area maps.

The above-referenced items are required to be furnished to DAI prior to the commencement of engineering services contained in this proposal.

**Basic Services**

Included in this proposal are engineering services associated with the following coordination and design tasks:

1. Highlight system improvements and the investments made to date.
2. Provide load growth projections through 2025.
3. Identify planning criteria and goals.
4. Provide analysis of Thurmont's past reliability and outage performance.
5. Identify existing electric distribution system deficiencies.
6. Provide overall analysis of system and age of infrastructure.



Mr. Jim Humerick

Page 2

June 16, 2015

7. Evaluate existing circuit configurations and identify upgrades that improve system reliability and redundancy with emphasis on electric restoration efforts by Town Electric Department personnel.
8. Identify locations for potential equipment installations that enhance the Town Electric Department's ability to isolate and sectionalize circuit loads.
9. Identify specific areas where circuit extensions and/or upgrades would increase system reliability.
10. Analysis of Thurmont Electric Department maintenance practices.
11. Provide discussion and analysis of removing overhead electric facilities from a segment of the downtown area.
12. Provide a list of recommended Capital Improvement Projects (CIP) to be completed over the next 10 years.
13. Provide opinion of probable costs for each CIP.
14. Present a draft report to the Town's Chief Administrative Officer, Public Works Director, and Electric Superintendent in advance of final edition.
15. Present the final report to Mayor and Commissioners at a regularly scheduled Town meeting and conclude with Q&A session.

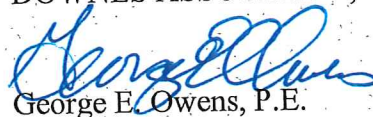
DAI proposes to complete the above-referenced engineering tasks for \$38,000.00 in engineering fees and associated project expenses.

#### Schedule

DAI will provide the basic services in a timely manner as agreed to in the Engagement Letter which shall be signed by the Town of Thurmont prior to the commencement of work by DAI. Any additional services requested by the Town of Thurmont that are outside the Basic Services listed above will be completed on a time and materials basis based on the enclosed Fee Schedule.

We sincerely appreciate this opportunity to offer this proposal for engineering services to the Town of Thurmont. Should you develop any questions with regard to scope of services, please do not hesitate to contact me.

Sincerely,  
DOWNES ASSOCIATES, INC.

  
George E. Owens, P.E.

GEO/slh

Enclosures:

Fee Schedule

Engagement Letter (2)

cc Timothy B. Shaver, Downes Associates, Inc.

197.04



## ORDINANCE NO. 2015-03

## MAYOR AND BOARD OF COMMISSIONERS

## THE TOWN OF THURMONT WATER QUALITY BOND, SERIES 2015

AN ORDINANCE OF THE TOWN OF THURMONT, A BODY POLITIC AND A MUNICIPAL CORPORATION OF THE STATE OF MARYLAND, PROVIDING FOR THE ISSUANCE AND SALE OF UP TO TWO MILLION SIX HUNDRED THOUSAND DOLLARS (\$2,600,000) PAR AMOUNT OF A BOND TO BE KNOWN AS "THE TOWN OF THURMONT WATER QUALITY BOND, SERIES 2015" (THE "**BOND**"), TO BE ISSUED AND SOLD PURSUANT TO THE AUTHORITY OF SECTION 19-301 *ET SEQ.* OF THE LOCAL GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND, AS AMENDED, SECTIONS 9-1601 THROUGH 9-1622 OF THE ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND, AS AMENDED, AND THE CHARTER OF THE TOWN OF THURMONT, SECTION 1215, FOR THE PURPOSE OF PROVIDING A PORTION OF THE FUNDS NECESSARY TO FINANCE AND REFINANCE THE COSTS OF IMPROVEMENTS TO THE TOWN OF THURMONT WASTEWATER TREATMENT SYSTEM, AND PAYING THE COSTS OF ISSUING THE BOND; PROVIDING THAT THE BOND SHALL BE ISSUED UPON THE FULL FAITH AND CREDIT OF THE TOWN OF THURMONT; PROVIDING FOR THE DISBURSEMENT OF THE PROCEEDS OF THE SALE OF THE BOND AND FOR THE LEVY OF ANNUAL TAXES UPON ALL ASSESSABLE PROPERTY WITHIN THE CORPORATE LIMITS OF THE TOWN SUBJECT TO ASSESSMENT FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BOND AS IT SHALL MATURE; AUTHORIZING THE FORM AND EXECUTION OF A LOAN AGREEMENT BETWEEN THE MARYLAND WATER QUALITY FINANCING ADMINISTRATION AND THE TOWN OF THURMONT; PROVIDING FOR THE FORM, TENOR, DENOMINATION, MATURITY DATE AND OTHER PROVISIONS OF THE BOND; PROVIDING FOR THE SALE OF THE BOND; AND PROVIDING FOR THE ADDITION OR SUBSTITUTION OF ADDITIONAL PROJECTS UNDER CERTAIN CIRCUMSTANCES AND RELATED PURPOSES, INCLUDING THE METHOD OF FIXING THE INTEREST RATE TO BE BORNE BY THE BOND.

**WHEREAS**, the Town of Thurmont (the "**Borrower**"), is a body politic and municipal corporation of the State of Maryland organized and operating under a charter adopted in accordance with Article XI-E of the Constitution of Maryland, and Title 4 of the Local Government Article of the Annotated Code of Maryland, as amended; and

**WHEREAS**, pursuant to the authority of Section 19-301 *et seq.* of the Local Government Article of the Annotated Code of Maryland, as amended, Sections 9-1601 through 9-1622 of the Environment Article of the Annotated Code of Maryland, as amended, and Article VII and Section 1215 of the Charter of the Town of Thurmont (the "**Charter**"), the Board of Commissioners of the Borrower has determined to issue its general obligation bond to be known as "The Town of Thurmont Water Quality Bond, Series 2015" (the "**Bond**") in the principal amount not to exceed Two Million Six Hundred Thousand Dollars (\$2,600,000) for the purpose of providing a portion of the funds necessary to finance and refinance the costs of improvements to the Town of Thurmont wastewater treatment system (the "**Project**") and the payment of issuance costs; and

**WHEREAS**, the Borrower proposes to issue and sell the Bond to the Maryland Water Quality Financing Administration, a unit of the Maryland Department of the Environment (the “**Administration**”), in connection with the Administration’s Water Quality Revolving Loan Fund Program (the “**Program**”) and to enter into a Loan Agreement with the Administration (the “**Loan Agreement**”) in substantially the form which is attached hereto as **Exhibit A**; and

**WHEREAS**, the Borrower intends by this Ordinance to provide for the issuance and sale of the Bond and the obtaining of a loan (the “**Loan**”) from the Administration pursuant to the Program.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF THURMONT:**

**Section 1. Authorization, Terms, Form of Bond.**

(a) The Borrower shall borrow upon its full faith and credit and shall issue and sell the Bond as its general obligation bond in the principal amount not to exceed Two Million Six Hundred Thousand Dollars (\$2,600,000), to be issued pursuant to the authority of Sections 19-301 *et seq.* of the Local Government Article of the Annotated Code of Maryland, as amended, Sections 9-1601 through 9-1622 of the Environment Article of the Annotated Code of Maryland, as amended (the “**Act**”), and Section 1215 of the Charter. The proceeds from the sale of the Bond shall be used for the purpose of providing a portion of the funds necessary to finance and refinance the costs of the Project and the payment of issuance costs and other related costs. Notwithstanding anything in this Ordinance to the contrary, the Borrower shall use and apply proceeds of the Bond only as permitted by the Loan Agreement, the Clean Water Act (as defined in the Loan Agreement) and the Act.

(b) The Bond shall be issued as a single fully registered bond in the principal amount not to exceed Two Million Six Hundred Thousand Dollars (\$2,600,000), payable to the Administration as the registered owner thereof. The Bond shall be issued in such amount or such lesser amount as determined by the Mayor pursuant to Section 1(g) of this Ordinance, which shall be the amount of the Loan to be financed under the Program.

(c) The Bond shall be dated as of the issue date; shall be numbered R-1; shall be initially registered in the name of the Administration or its designee; shall bear interest from its dated date payable in semiannual installments, at the designated office of the Administration.

(d) The Bond shall bear interest at an annual rate or rates of interest as noted in the Bond, (which rate shall not exceed 50% of the average of the Bond Buyer 11-Bond Index for the month preceding the month in which the loan is closed) and shall mature no later than twenty years after the date of completion of the Project, the actual rate or rates of interest to be borne by the Bond, scheduled principal payments and maturity to be determined with the approval of the Mayor acting pursuant to Section 1(g) of this Ordinance.

(e) The Bond shall be in substantially the form set forth on Exhibit F to the Loan Agreement, which form of Bond, together with all of the covenants and conditions therein contained, is hereby adopted by the Borrower as and for the form of obligation to be incurred

by the Borrower and such covenants and conditions are hereby made binding upon the Borrower, including the promise to pay therein contained.

(f) The Bond is to be issued in connection with the Program to finance the Project and to pay costs of issuance and other related costs. The Borrower will enter into the Loan Agreement with the Administration in substantially the form which is attached hereto as **Exhibit A**. The Borrower also will execute and deliver in connection with the issuance of the Bond, additional documents, agreements, instruments and certificates (which, together with the Loan Agreement are herein referred to as the “**Loan Documents**”). The Loan Documents shall be in such form and shall contain such terms and conditions as contained in this Ordinance, as approved by the Mayor in accordance with subsection (g) below, and acceptable to the Administration. The Borrower agrees to perform the covenants and agreements set forth in the Loan Documents and hereby expressly acknowledges its absolute and unconditional obligation to pay the Administrative Fee of the Administration in accordance with the Loan Agreement.

(g) Because this Ordinance is being adopted before completion of the financing, the details of the Loan to be made by the Administration to the Borrower have not yet been finalized; therefore, upon approval by a majority of the members of the Board of Commissioners (“the **Board Approval**”), the Mayor is hereby authorized to make such changes to the amount, terms and form of the Bond and the Loan Agreement, including insertions therein or additions or deletions thereto, as may be necessary to conform the terms of the Bond and the Loan Agreement to the terms of the financing to be provided to the Borrower by the Administration. Without limiting the foregoing, it is presently contemplated that the Loan will be in an amount not to exceed the maximum principal amount of the Bond hereby authorized, subject to final approval by the Administration. Accordingly, the Mayor is specifically authorized, subject to the Board Approval: (i) to make changes to the principal amount of the Bond in order to reflect the final principal of the Loan as approved by the Administration and accepted by the Borrower up to the amount authorized by this Ordinance, (ii) to authorize and approve an interest rate or rates as limited by this Ordinance, and payment schedule reflecting the principal and interest payments with respect to the Bond, and (iii) to change the year of the series designation of the Bond as described herein to the actual year in which the Bond is issued.

**Section 2. Execution.** The Bond and the Loan Documents shall be executed on behalf of the Borrower by the manual signature of the Mayor of the Borrower, and the seal of the Borrower shall be affixed thereto or reproduced thereon and attested by the manual signature of the Chief Administrative Officer of the Borrower. In the event any official whose signature appears on the Bond or the Loan Documents shall cease to be an official prior to the delivery of the Bond or the Loan Documents, or, in the event any official whose signature appears on any of the Bond or the Loan Documents becomes an officer after the date of the issue, the Bond or Loan Documents shall nevertheless be valid and binding obligations of the Borrower in accordance with their terms. The Mayor of the Borrower, consistent with the Board Approval, is hereby authorized, empowered and directed to complete the applicable form of the Bond and the Loan Documents and to make modifications, deletions, corrections or other changes thereto in any manner which the Mayor, in his or her discretion, shall deem necessary to complete the issuance and sale of the Bond and the execution and delivery of the Loan Documents, as will not alter the

substance thereof. The Mayor is hereby also authorized, consistent with the Board Approval, to execute other documents relating to the Loan and the Bond and its administration, including subsequent modifications, deletions, corrections and other changes thereto in any manner which the Mayor, in his or her discretion, shall deem appropriate. The execution of the Bond and the Loan Documents and any other documents relating to the Loan and the Bond by the Mayor shall be conclusive evidence of his approval of the form and substance thereof.

**Section 3. Registration of Bonds.** The Chief Administrative Officer shall act as registrar for the Bond and shall maintain registration books for the registration and registration of transfer of the Bond. No security or bonds shall be required of the Chief Administrative Officer in the performance of the duties of registrar for the Bond. The Borrower may from time to time by resolution adopted by the Board of Commissioners, either prior to or following the issuance of the Bond, designate and appoint one or more substitute or successor registrars or paying agents for the Bond.

The Bond will be transferable by the Chief Administrative Officer only upon the register for the Bond maintained by the Chief Administrative Officer. Any Bond presented for transfer, exchange or registration, shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form and with guaranty of signature satisfactory to the Chief Administrative Officer, duly executed by the registered owner thereof or by such owner's duly authorized attorney. Upon any transfer or exchange, the Borrower shall execute and deliver in the name of the registered owner or the transferee or transferees, as the case may be, a new registered Bond of authorized denomination(s) in the outstanding and unpaid principal amount of the Bond, payable or maturing on the same date or dates and bearing interest at the same rate as the surrendered Bond. In each case, the Borrower may require payment by the registered owner requesting the exchange or transfer of any tax, fee or other governmental charge and of any shipping and insurance charges that may be required to be paid with respect thereto, but otherwise no charge shall be made to the registered owner for the exchange or transfer. The Registrar shall not be required to transfer or exchange any Bond after the mailing of a notice of redemption.

The Borrower may deem and treat the person in whose name any Bond shall be registered upon the books of the Borrower 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, premium, if any, of and interest on such Bond and for all other purposes.

**Section 4. Prepayment.** The Loan Agreement limits the ability of the Borrower to prepay the Bond. The Bond is subject to mandatory prepayment as required under the Loan Agreement and optional prepayment in whole or in part only at such times and in such amounts, and upon the payment by the Borrower of such premium or penalty, as the Administration may specify and approve.

**Section 5. Replacement of Mutilated, Lost, Stolen, or Destroyed Bonds.** In case the Bond shall become mutilated or be destroyed, lost or stolen, the Borrower may cause to be executed and delivered, a new Bond of like date and tenor and bearing the same or a different number, in exchange and substitution for each Bond mutilated, destroyed, lost or stolen, upon the owner paying the reasonable expenses and charges of the Borrower in connection therewith and, in the case of any Bond being destroyed, lost or stolen, upon the owner filing with the Borrower

evidence satisfactory to it that such Bond was destroyed, lost or stolen. Any Bond so issued in substitution for a Bond so mutilated, destroyed, lost or stolen: (i) may be typewritten, printed or otherwise reproduced in a manner acceptable to the owner thereof, and (ii) shall constitute an original contractual obligation on the part of the Borrower, whether or not the Bond in exchange for which said new Bond is issued shall at any later date be presented for payment and such payment shall be enforceable by anyone, and any such new Bond shall be equally and proportionately entitled to the benefits of this Bond with all other like Bonds, in the manner and to the extent provided herein.

#### **Section 6. Use of Proceeds; Records.**

(a) The proceeds of the Bond shall be held, invested, administered and disbursed by the Administration pursuant to the Loan Agreement and shall be used, when and as required, to pay the costs of the Project.

(b) The Loan Commitment (as defined in the Loan Agreement) is subject to reduction in accordance with the Loan Agreement. In the event of any reduction in the amount of the Loan Commitment, the Administration may prepare, and the Borrower shall repay the Loan in accordance with, a revised principal amortization schedule.

(c) The Chief Administrative Officer or Chief Financial Officer shall create and maintain, or cause to be created and maintained, full and complete books and records of account for the receipt, investment and disbursement of the proceeds of the Bond.

**Section 7. Covenants.** The Borrower covenants with the Administration and for the benefit of the owners from time to time of the Bond that so long as the Bond or installments of principal thereunder shall remain outstanding and unpaid:

(a) For the purpose of paying the maturing principal of and interest on the Bond when due, the Borrower has established or shall establish a dedicated source of revenue as described in the Loan Agreement.

(b) The Borrower will duly and punctually pay, or cause to be paid, to the Administration the principal of the Bond and interest accruing thereon, at the dates and places and in the manner mentioned in the Bond from unlimited ad valorem taxes in the event that available monies or revenues of the Borrower are inadequate to make such payment.

(c) The Borrower covenants that so long as the Bond is outstanding and not paid, unless other monies or revenues are available for payment of principal of, premium (if any) and interest on the Bond, it will levy annually, in the manner prescribed by law, a tax on all real and tangible personal property within its corporate limits subject to assessment for unlimited taxation, ad valorem taxes in rate and amount and sufficient, to provide for the payment of the principal of and interest on the Bond as the same become due and payable. In the event that the monies or revenues available or the taxes so levied in any fiscal year shall prove inadequate for the above purposes, the Borrower shall levy additional taxes in the succeeding fiscal year to make up such deficiency. The full faith and credit and the unlimited taxing

power of the Borrower are hereby irrevocably pledged to the punctual payment of the principal of and interest on the Bond as the same become due.

(d) The Borrower will promptly provide to the Administration (or to any person designated by the Administration) all financial information and operating data concerning the Borrower as may be required by the Administration in its discretion in order to comply with the requirements of Rule 15c2-12 of the United States Securities and Exchange Commission, as in effect from time to time, applicable to the Administration's bonds.

**Section 8. Ordinance a Contract.** The provisions of this Ordinance shall constitute a contract with the purchasers and registered owners from time to time of the Bond, and this Ordinance shall not be repealed, modified or altered in any manner materially adverse to the interests of such purchasers or owners while the Bond or any portion thereof remain outstanding and unpaid without the consent of the owners of the Bond.

**Section 9. Purchase Price of Bond.** The Bond shall be sold for cash in accordance with the terms and provisions of this Ordinance, at par in accordance with the terms and provisions of this Ordinance, and as authorized by Section 19-301 *et seq.* of the Local Government Article of the Annotated Code of Maryland, as amended and Sections 9-1601 through 9-1622 of the Environment Article of the Annotated Code of Maryland, as amended.

**Section 10. Sale of Bond.** The Bond shall be sold to the Administration at private sale, as authorized by Section 9-1606(b) of the Environment Article of the Annotated Code of Maryland, as amended, and Section 1215 of the Charter.

**Section 11. Pledge of Local Government Payments.** As contemplated and authorized by Section 9-1606(d) of the Environment Article of the Annotated Code of Maryland, as amended, the Borrower hereby pledges, assigns and grants a security interest to the Administration, its successors in trust and assigns, all right, title and interest of the Borrower in and to money that the Borrower is entitled to receive from the State of Maryland, to secure payment of the principal of, premium, if any, and interest on the Bond and any other local obligations issued and to be issued from time to time by the Borrower under the Program.

**Section 12. Authority to Take Action.** The officers and employees of the Borrower are hereby authorized and directed to do all acts and things required of them by the provisions of this Ordinance, for the full, punctual and complete performance of all the terms, covenants and provisions of the Bond, the Loan Documents and this Ordinance and to do and perform all acts and to execute, seal and deliver all documents, certificates or instruments of writing which may be necessary or desirable to carry out the full intent and purposes of this Ordinance and the Loan Documents. Any and all acts heretofore taken by the officers or employees of the Borrower in connection with the authorization, offer, sale and delivery of the Bond are hereby approved, ratified and confirmed.

**Section 13. Covenants Relating to Tax Exempt Status of the Bond.**

(a) The Mayor, the Chief Financial Officer and the Chief Administrative Officer shall be the officials of the Borrower responsible for the issuance of the Bond within the meaning of Section 1.148-2 of the Arbitrage Regulations (defined below). The Mayor, the Chief

Financial Officer and the Chief Administrative Officer shall also be the officials of the Borrower responsible for the execution and delivery on the date of the issuance of the Bond of a certificate or certificates of the Borrower (a "**Tax and Section 148 Certificate**") that complies with the requirements of Section 148 of the Internal Revenue Code of 1986, as amended ("**Section 148**"), and the applicable regulations thereunder (the "**Arbitrage Regulations**"), and such officials are hereby authorized and directed to execute and deliver a Tax and Section 148 Certificate to counsel rendering an opinion on the validity of the Bond on the date of issuance of the Bond.

(b) The Borrower shall set forth in the Tax and Section 148 Certificate its reasonable expectations as to relevant facts, estimates and circumstances relating to the use of the proceeds of the Bond or of any monies, securities or other obligations on deposit to the credit of any account of the Borrower which may be deemed to be proceeds of the Bond pursuant to Section 148 or the Arbitrage Regulations (the "**Bond Proceeds**"). The Borrower covenants that the facts, estimates and circumstances set forth in the Tax and Section 148 Certificate will be based on the Borrower's reasonable expectations on the date of the issuance of the Bond and will be, to the best of the certifying officials' knowledge, true and correct as of that date.

(c) The Borrower covenants and agrees with the registered owner or owners of the Bond that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use of the Bond Proceeds that would cause the Bond to be an "arbitrage bond" within the meaning of Section 148 and the Arbitrage Regulations. The Borrower further covenants that it will comply with Section 148 and the Arbitrage Regulations which are applicable to the Bond on the date of issuance thereof and which may subsequently be made applicable thereto as long as the Bond remains outstanding and unpaid. The Mayor, the Chief Financial Officer and the Chief Administrative Officer are hereby authorized and directed to prepare or cause to be prepared and to execute any certification, opinion or other document, including, without limitation, a Tax and Section 148 Certificate, which may be required to assure that the Bond will not be deemed to be an "arbitrage bond" within the meaning of Section 148 and the Arbitrage Regulations. All officers, employees and agents of the Borrower are hereby authorized and directed to take such actions, and to provide such certifications of facts and estimates regarding the amount and use of the proceeds of the Bond as may be necessary or appropriate from time to time to comply with, or to evidence the Borrower's compliance with, the covenants set forth in this Section.

(d) The Borrower further covenants that it shall make such use of the proceeds of the Bond, regulate the investment of the proceeds thereof, and take such other and further actions as may be required to maintain the excludability from gross income for federal income tax purposes of interest on such Bond.

(e) The Borrower further covenants with the registered owner or owners of the Bond (i) that it will not take any action or (to the extent that it exercises control or direction) permit any action to be taken that would cause the Bond or a portion of the Bond to be "federally guaranteed" within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "**Code**"), and (ii) that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use of the proceeds of the Bond or a portion of such

proceeds that would cause the Bond or a portion of the Bond to be a "private activity bond" within the meaning of Section 141(a) of the Code.

(f) The Mayor may make such covenants or agreements in connection with the issuance of the Bond as he shall deem advisable in order to assure the registered owner or owners of the Bond that interest thereon shall be and remain excludable from gross income for federal income tax purposes, and such covenants or agreements shall be binding on the Borrower so long as the observance by the Borrower of any such covenants or agreements is necessary in connection with the maintenance of the exclusion of the interest on the Bond from gross income for federal income tax purposes. The foregoing covenants and agreements may include such covenants or agreements on behalf of the Borrower regarding compliance with the provisions of the Code as the Mayor shall deem advisable in order to assure the registered owner or owners of the Bond that the interest thereon shall be and remain excludable from gross income for federal income tax purposes, including (without limitation) covenants or agreements relating to the use and investment of Bond Proceeds, the payment of certain earnings (if any) resulting from such investment to the United States, limitations on the times within which, and the purpose for which Bond Proceeds may be expended, or the use of specified procedures for accounting for and segregating Bond Proceeds. Such covenants and agreements may be set forth in a Tax and Section 148 Certificate.

#### **Section 14. Effective Date; Miscellaneous.**

(a) **Effective Date.** This Ordinance shall take effect at the expiration of seven (7) calendar days following adoption by the Board of Commissioners of the Borrower.

(b) **Governing Law.** The laws of the State of Maryland shall govern the construction of this Ordinance and the Bond.

(c) **Publication of Ordinance; Filing; Certified Copies of Ordinance.** The Chief Administrative Officer of the Borrower shall cause (i) a notice of this Ordinance to be published in accordance with the requirements of Section 413(a) of the Charter, and (ii) a true and correct copy of this Ordinance to be filed in the permanent records of the Borrower and kept available for public inspection in accordance with the requirements of Section 413(b) of the Charter. Any copy of this Ordinance duly certified by the Chief Administrative Officer or any successor in office shall constitute evidence of the contents and provisions hereof.

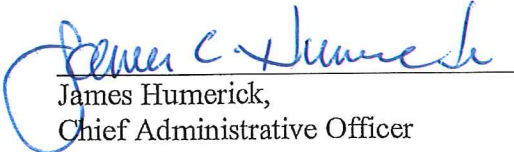
(d) **Severability.** The provisions of this Ordinance are severable, and if any provision, sentence, phrase, clause, section or part of this Ordinance shall be held or deemed to be illegal, invalid, inoperative, or unenforceable, the same shall not affect or impair any other provision, sentence, phrase, clause, section or part of this Ordinance. Any references in this Ordinance to any provisions of state, federal or local law are not exclusive of any other provisions of federal, state or local law applicable to any provisions hereof. It is hereby declared to be the legislative intent that this Ordinance would have been adopted if such illegal, invalid or unconstitutional provision, sentence, phrase, clause, section or part had not been included herein.




(e) **No Personal Liability of Officers, Agents or Employees.** No stipulation, obligation or agreement herein contained or contained in the Bond or in any Loan Documents executed on behalf of the Borrower shall be deemed to be a stipulation, obligation or agreement of any officer, agent or employee of the Borrower in his or her individual capacity, and no such officer, agent, or employee shall be personally liable on the Bond or be subject to personal liability or accountability by reason of the issuance thereof.

**PASSED AND APPROVED** by the Board of Commissioners of the Town of Thurmont on  
this 23rd day of June 2015.

**ATTEST:**

  
James Humerick,  
Chief Administrative Officer

**THE BOARD OF COMMISSIONERS OF  
THE TOWN OF THURMONT**

  
John A. Kinnaird, Mayor

  
Wilbur L. Buehrer, Commissioner

  
Wayne A. Hooper, Commissioner

  
Martin Allen Burns, Commissioner

  
Wes Hamrick, Commissioner

**Exhibits**

A - Form of Loan Agreement

WATER QUALITY BOND

Exhibit A to  
Ordinance No. 2015-03

**Form of Loan Agreement**

LOAN AGREEMENT

By and Between

MARYLAND WATER QUALITY  
FINANCING ADMINISTRATION

and

"Insert Name of Entity"

Dated as of , 2015

## TABLE OF CONTENTS

### Page

#### ARTICLE I

##### DEFINITIONS

Section 1.01	Definitions.....	2
Section 1.02	Rules of Construction.....	5

#### ARTICLE II

##### REPRESENTATIONS AND COVENANTS OF BORROWER

Section 2.01	Representations of Borrower.....	6
Section 2.02	Particular Covenants of the Borrower.....	8

#### ARTICLE III

##### LOAN TO BORROWER; AMOUNTS PAYABLE; GENERAL AGREEMENTS

Section 3.01	The Loan.....	13
Section 3.02	Availability of Funds.....	13
Section 3.03	Requisitions and Disbursements.....	14
Section 3.04	Amounts Payable.....	15
Section 3.05	Sources of Payment.....	17
Section 3.06	Unconditional Obligations. ....	17
Section 3.07	Loan Commitment.....	18
Section 3.08	Reduction of Loan Commitment.....	18
Section 3.09	Disclaimer of Warranties .....	19
Section 3.10	Prepayments.....	19
Section 3.11	Assignment.....	19

## ARTICLE IV

### EVENTS OF DEFAULT AND REMEDIES

Section 4.01	Events of Default.....	19
Section 4.02	Notice of Default.....	20
Section 4.03	Remedies on Default .....	20
Section 4.04	Attorneys' Fees and Other Expenses.....	20
Section 4.05	Application of Monies .....	20
Section 4.06	No Remedy Exclusive; Waiver; Notice .....	21

## ARTICLE V

### MISCELLANEOUS

Section 5.01	Notices.....	21
Section 5.02	Binding Effect .....	21
Section 5.03	Severability .....	21
Section 5.04	Execution in Counterparts .....	21
Section 5.05	Applicable Law .....	21
Section 5.06	Captions.....	21
Section 5.07	Further Assurances.....	21
Section 5.08	Entire Agreement .....	22
Section 5.09	Amendment of this Agreement .....	22
Section 5.10	Disclaimer of Relationships.....	22
Section 5.11	Effective Date .....	22
Section 5.12	Term of this Agreement.....	22
Section 5.13	Delegation Not to Relieve Obligations.....	22
Section 5.14	Additional Terms.....	22
EXHIBIT A --	Special Conditions.....	A-1
EXHIBIT B --	Description of the Loan .....	B-1
EXHIBIT C --	Project Budget .....	C-1
EXHIBIT D --	Opinion of Borrower's Counsel.....	D-1
EXHIBIT E --	Description of Dedicated Revenues.....	E-1
EXHIBIT F --	Form of Note.....	F-1

## LOAN AGREEMENT

THIS LOAN AGREEMENT, made this onlyme  
day of , 2015 between the Maryland Water Quality Financing Administration  
(the "Administration"), a unit of the Department of the Environment (the "Department") of the State  
of Maryland (the "State"), and ., a of the State (the "Borrower").

## RECITALS

Title VI of the Federal Water Pollution Control Act (commonly known as the "Clean Water Act"), as amended by the Water Quality Act of 1987 ("Title VI"), authorizes the Environmental Protection Agency ("EPA") to award grants to qualifying States to establish and capitalize State water pollution control revolving funds ("SRFs") for the purpose of providing loans and certain other forms of financial assistance (but not grants) to finance, among other things, the construction and improvement of publicly-owned wastewater treatment facilities and the implementation of estuary conservation management plans and nonpoint source management programs.

As contemplated by Title VI, the General Assembly of the State at its 1988 session enacted the Maryland Water Quality Financing Administration Act, codified at Sections 9-1601 through 9-1622 of the Environment Article of the Annotated Code of Maryland, as amended (the "Act"), establishing an SRF designated the Maryland Water Quality Revolving Loan Fund (the "Fund") to be maintained and administered by the Administration. The Act authorizes the Administration, among other things, to make a loan from the Fund to a "local government" (as defined in the Act) for the purpose of financing all or a portion of the cost of a "wastewater facility" project (as defined in the Act).

The Borrower, which is a "local government" within the meaning of the Act, has applied to the Administration for a loan from the Fund to assist in the financing of a certain project or projects of the Borrower (the "Project," as defined herein) which constitutes a "wastewater facility" within the meaning of the Act. The Project is one designated for funding in an Intended Use Plan promulgated by the Administration in accordance with regulations issued by the EPA pursuant to Title VI, and the Project conforms to the applicable "county plan" adopted pursuant to the requirements of Subtitle 5 of Title 9 of the Environment Article of the Annotated Code of Maryland, as amended.

The Director of the Administration has determined that the making of a loan to the Borrower for the purpose of assisting the financing of the Project, on the terms and conditions hereinafter set forth, is necessary and desirable in the public interest, will promote the health, safety and welfare of the inhabitants of the State and the United States by assisting in the prevention of pollution of the environment, and will further the purposes of Title VI and the Act.

The Act authorizes the Administration, subject to the prior approval of the Secretary of the Department and the Board of Public Works, to issue its revenue bonds for the purpose of

providing monies for deposit to the Fund. The Administration may issue and sell one or more series of such revenue bonds (the "Bonds") for the purpose of providing monies for deposit to the Fund in an amount sufficient, together with certain other monies expected to be available for that purpose, to enable the Administration to make, or reimburse the Administration for making, a loan to the Borrower and certain other entities to assist in the financing of projects, all as contemplated by the Administration's Intended Use Plan. The revenues from this loan and such other loans, whether or not funded from the proceeds of Bonds, may be pledged by the Administration to secure Bonds.

NOW THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower and the Administration, each intending to be legally bound, hereby agree as follows:

## ARTICLE I

### DEFINITIONS

Section 1.01. Definitions. Unless specifically provided otherwise or the context otherwise requires, when used in this Agreement:

"Act" means the Maryland Water Quality Financing Administration Act, Sections 9-1601 through 9-1622 of the Environment Article, Annotated Code of Maryland, and all acts supplemental thereto or amendatory thereof.

"Administration" means the Maryland Water Quality Financing Administration, a unit of the Department of the Environment of the State, and its successors and assigns.

"Administrative Fee" means the fee payable by the Borrower pursuant to this Agreement for the general administrative services and other functions and expenses of the Administration.

"Agreement" means this Loan Agreement, including the Exhibits attached hereto and any amendments hereto.

"Application" means the application for the Loan submitted by the Borrower to the Administration, together with any amendments thereto.

"Authorized Officer" means, in the case of the Borrower, any person authorized by law or by a resolution of the governing body of the Borrower to perform any act or execute any document.

"Board" means the Board of Public Works of the State.



“Bonds” means any series of revenue bonds issued by the Administration under the Act.

“Bond Counsel” means a law firm acceptable to the Administration whose legal opinions are generally accepted by purchasers of municipal bonds.

“Borrower” means the local government (as defined in the Act) that is identified in the first paragraph of this Agreement, and its successors and assigns.

“Business Day” means a day other than a Saturday, Sunday, or day on which the offices of the Administration or commercial banks in the State are authorized or obligated to remain closed.

“Change Orders” means any amendments or modifications to any Plans and Specifications or any general construction contract for the Project.

“Clean Water Act” means the Water Pollution Control Act of 1972, PL 92-500, as amended, 33 U.S.C. § 1251 *et seq.*, and rules and regulations promulgated thereunder.

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

“Default” means an event or condition the occurrence of which would, with the lapse of time or the giving of notice or both, constitute an Event of Default.

“Department” means the Maryland Department of the Environment, and its successors.

“Director” means the Director of the Administration.

“Eligible Project Costs” means all those costs of the Project permitted by the Act to be funded by a loan from the Fund and which have been approved by the Director.

“EPA” means the United States Environmental Protection Agency, and its successors.

“Event of Default” means any occurrence or event specified in Section 4.01 hereof.

“Fiscal Year” means the period of 12 consecutive months commencing on July 1 in any calendar year and ending on June 30 of the succeeding calendar year.

“Fund” means the Maryland Water Quality Revolving Loan Fund.

“Governmental Authority” means the United States, the State of Maryland, or any of their political subdivisions, agencies, departments, commissions, boards, bureaus or instrumentalities,

including any local authority having jurisdiction over the Project, and including EPA, the Department, the Board and the Administration.

“Indenture” means the indenture of trust, bond resolution or other trust agreement between the Administration and the Trustee, providing for the issuance of Bonds, as amended, modified or supplemented from time to time.

“Independent Counsel” means any attorney or attorneys duly admitted to practice law before the highest court of any state who have regularly engaged in the practice of law as their primary occupation for at least five years. Independent Counsel may also serve as Bond Counsel if it qualifies as Bond Counsel.

“Independent Public Accountant” means an individual, partnership or corporation engaged in the accounting profession, either entitled to practice, or having members or officers entitled to practice, as a certified public accountant under the laws of the State of Maryland and in fact independent.

“Loan” means the aggregate amounts which are advanced from time to time by the Administration to the Borrower pursuant to the terms and provisions of this Agreement.

“Loan Closing Date” means the date on which the Note is executed and delivered to the Administration.

“Loan Commitment” means that amount which the Administration is obligated to lend to the Borrower pursuant to the terms and provisions of this Agreement and subject to the satisfaction of the conditions set forth in this Agreement, as such amount may be adjusted as provided in this Agreement.

“Loan Proceeds Questionnaire and Certificate” means the Loan Proceeds Questionnaire and Certificate executed and provided by the Borrower in connection with the Loan, in form and substance satisfactory to the Administration.

“Loan Year” means the period beginning on the first February 1 on which principal of the Loan is payable and each February 1 thereafter and ending on the immediately succeeding January 31.

“Note” means the bond, note or other obligation executed and delivered by the Borrower to the Administration to evidence the Loan, such Note to be substantially in the form attached hereto as Exhibit F.

“Plans and Specifications” means the final plans and specifications for the construction of the Project prepared by the architect or engineer and approved by the Department.

“Project” means the project or projects of the Borrower described in Exhibit B to this Agreement.

“Project Budget” means the budget for the Project as set forth in Exhibit C to this Agreement, as revised in accordance with Section 2.02(d).

“Related Financing” means any bond, note, agreement or other instrument or transaction (other than this Agreement or the Note) pursuant to which the Borrower obtains any monies that may be expended to pay costs of the Project.

“Requirement” means any law, ordinance, code, order, rule or regulation of a Governmental Authority, including, without limitation, a condition set forth in a National Pollution Discharge Elimination System (“NPDES”) permit or in a construction permit issued by the Department.

“State” means the State of Maryland.

“Tax-Exempt Bonds” means Bonds the interest on which is excludable from gross income for federal income tax purposes under the Code.

“Trustee” means the trustee for the Bonds.

Section 1.02. Rules of Construction. Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of this Agreement:

(a) words importing the singular number include the plural number and words importing the plural number include the singular number;

(b) words of the masculine gender include correlative words of the feminine and neuter genders;

(c) words importing persons include any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or agency or political subdivision thereof;

(d) the terms “agree” and “agreement” shall include and mean “covenant”, and all agreements contained in this Agreement are intended to constitute covenants and shall be enforceable as such;

(e) the headings and the Table of Contents set forth in this Agreement are solely for convenience of reference and shall not constitute a part of this Agreement or affect its meaning, construction or effect; and

(f) any reference to a particular Article or Section shall be to such Article or Section of this Agreement unless the context shall otherwise require.

## ARTICLE II

### REPRESENTATIONS AND COVENANTS OF BORROWER

Section 2.01. Representations of Borrower. The Borrower represents for the benefit of the Administration as follows:

(a) Corporate Organization and Authority. The Borrower:

- (i) is a "local government" as defined in the Act; and
- (ii) has all requisite power and authority and all necessary licenses and permits required as of the date hereof to own and operate the Project, to enter into this Agreement, to execute and deliver the Note, and to carry out and consummate all transactions contemplated by this Agreement.

(b) Full Disclosure. There is no fact that the Borrower has not disclosed to the Administration in writing that materially adversely affects or (so far as the Borrower can now foresee) that will materially adversely affect the properties, activities, prospects or condition (financial or other) of the Borrower or the ability of the Borrower to make all payments due hereunder and otherwise perform its obligations under this Agreement and the Note.

(c) Pending Litigation. There are no proceedings pending, or to the knowledge of the Borrower threatened, against or affecting the Borrower in any court or before any Governmental Authority or arbitration board or tribunal that, if adversely determined, would materially adversely affect the properties, activities, prospects or condition (financial or other) of the Borrower, or the ability of the Borrower to make all payments due hereunder and otherwise perform its obligations under this Agreement and the Note, and that have not been disclosed in writing to the Administration in the Application or otherwise.

(d) Borrowing Legal and Authorized. The consummation of the transactions provided for in this Agreement and the Note and compliance by the Borrower with the provisions of this Agreement and the Note:

- (i) are within its powers and have been duly authorized by all necessary action on the part of the governing body of the Borrower; and
- (ii) will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrances upon any property or assets of the Borrower pursuant to, any indenture, loan agreement or other instrument (other than this Agreement and the Note) to which the Borrower is a party or by which the Borrower may be bound, nor will such action result in any violation of the provisions of laws,

ordinances, governmental rules, regulations or court orders to which the Borrower or its properties or operations is subject.

(e) No Defaults. No event has occurred and no condition exists that, upon execution of this Agreement and the Note or receipt of the Loan, would constitute a Default hereunder. The Borrower is not in violation, and has not received notice of any claimed violation, of any term of any agreement or other instrument to which it is a party or by which it or its property may be bound, which violation would materially adversely affect the properties, activities, prospects or condition (financial or other) of the Borrower or the ability of the Borrower to make all payments due hereunder and otherwise perform its obligations under this Agreement and the Note, and that have not been disclosed in writing to the Administration in the Application or otherwise.

(f) Governmental Consent; Project Consistency.

(i) The Borrower has obtained all permits and approvals required to date by any Governmental Authority for the making and performance by the Borrower of its obligations under this Agreement and the Note or for the Project and the financing thereof. No consent, approval or authorization of, or filing, registration or qualification with, any Governmental Authority that has not been obtained is required on the part of the Borrower as a condition to the execution and delivery of this Agreement and the Note or the consummation of any transaction herein contemplated.

(ii) The Project is consistent with (A) the local plan of the Borrower as contemplated under Section 5-7A-02 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended; (B) the State Economic Growth, Resource Protection, and Planning Policy established in Section 5-7A-01 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended; and (C) all applicable provisions of *Subtitle 7B; "Priority Funding Areas"* of Title 5 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended.

(g) No Conflicts. No member, officer, or employee of the Borrower, or its designees, or agents, no consultant, no member of the governing body of the Borrower or of any Governmental Authority, who exercises or has exercised any authority over the Project during such person's tenure, shall have any interest, direct or indirect, in any contract or subcontract, or its proceeds, in any activity, or benefit therefrom, which is part of the Project.

(h) Use of Proceeds. The Borrower will apply the proceeds of the Loan from the Administration as described in Exhibit B attached hereto and made a part hereof (i) to finance all or a portion of the Eligible Project Costs; and (ii) to reimburse the Borrower for all or a portion of the Eligible Project Costs paid or incurred prior to the date hereof in anticipation of reimbursement by the Administration (and subject to compliance with Section 2.02(l) of this Agreement). Except as provided in Sections 3.01 and 3.03(c) of this Agreement, before each and every advance of the

proceeds of the Loan to the Borrower, the Borrower shall submit to the Administration a requisition meeting the requirements of Section 3.03 of this Agreement.

(i) Loan Closing Submissions. On or before the Loan Closing Date, the Borrower will cause to be delivered to the Administration each of the following items:

(i) an opinion of Independent Counsel, acceptable to the Administration, dated as of the Loan Closing Date, substantially in the form set forth in Exhibit D to this Agreement;

(ii) an opinion of Bond Counsel [who may rely, as to the validity of this Agreement and the Note, on the opinion of Independent Counsel referred to in (i)], dated as of the Loan Closing Date, and acceptable to the Administration, to the effect that (A) interest on the Loan and the Note will be excludable from gross income for purposes of federal income taxation and (B) interest on the Loan and the Note will not be included in the alternative minimum taxable income of individuals, corporations or other taxpayers as an enumerated item of tax preference or other specific adjustment;

(iii) fully executed counterparts of this Agreement, the Note and the Loan Proceeds Questionnaire and Certificate;

(iv) copies of the ordinance, resolution or other official action of the governing body of the Borrower authorizing the execution and delivery of this Agreement and the Note, certified by an appropriate officer of the Borrower;

(v) a certificate, dated as of the Loan Closing Date, signed by an Authorized Officer of the Borrower and in form satisfactory to the Administration, confirming the Borrower's obligations under and representations in the Loan Agreement and the Loan Proceeds Questionnaire and Certificate as of such date;

(vi) a requisition in an amount not less than the lesser of 5% of the Loan Commitment or \$50,000 for (i) reimbursement to the Borrower of Eligible Project Costs together with paid invoices supporting such reimbursement or (ii) payment to third-parties of currently due and payable invoices for Eligible Project Costs or (iii) a combination of (i) and (ii); and

(vii) such other certificates, documents, opinions and information as the Administration may require.

Section 2.02. Particular Covenants of the Borrower.

(a) Maintenance of Project; Insurance. The Borrower shall (i) keep, operate and maintain, or cause to be kept, operated and maintained, the Project in good working order, condition and repair; (ii) make or cause to be made all needed and proper replacements to the Project so that

the Project will at all times be in good operating condition, fit and proper for the purposes for which it was originally erected or installed; (iii) not permit any waste of the Project; (iv) observe and comply with, or cause to be observed and complied with, all Requirements; and (v) operate, or cause to be operated, the Project in the manner in which similar projects are operated by persons operating a first-class facility of a similar nature. The Borrower shall maintain or cause to be maintained at its sole cost and expense insurance with respect to the Project, both during its construction and thereafter, against such casualties and contingencies and in such amounts as are customarily maintained by governmental entities similarly situated and as are consistent with sound governmental practice.

(b) Sale or Disposition of Project. The Borrower reasonably expects that no portion of the Project will be sold prior to the final maturity date of the Loan. In the event that the Borrower shall sell or otherwise dispose of any portion of the Project prior to the final maturity date of the Loan, the Borrower shall apply the net proceeds thereof to the prepayment of the Loan or as the Administration shall otherwise direct unless (i) the Borrower shall have obtained the prior written consent of the Administration to some other proposed application of such net proceeds and (ii) there shall have been delivered to the Administration an opinion of Bond Counsel to the effect that, in the opinion of such firm, such proposed application of such net proceeds will not adversely affect the tax-exempt status for federal income tax purposes of the interest on any Tax-Exempt Bonds applicable to the Project or the Note.

(c) Inspections; Information. The Borrower shall permit the Administration or its designee to examine, visit and inspect, at any and all reasonable times (including, without limitation, any time during which the Project is under construction or in operation), the property constituting the Project, to attend all construction progress meetings relating to the Project and to inspect and make copies of any accounts, books and records, including (without limitation) its records regarding receipts, disbursements, contracts, investments and any other matters relating to the Project and the financing thereof, and shall supply such reports and information as the Administration may reasonably require in connection therewith. Without limiting the generality of the foregoing, the Borrower shall keep and maintain any books, records, and other documents that may be required under applicable federal and State statutes, regulations, guidelines, rules and procedures now or hereafter applicable to loans made by the Administration from the Fund, and as may be reasonably necessary to reflect and disclose fully the amount and disposition of the Loan, the total cost of the activities paid for, in whole or in part, with the proceeds of the Loan, and the amount and nature of all investments related to such activities which are supplied or to be supplied by other sources. All such books, records and other documents shall be maintained at the offices of the Borrower, as specified on Exhibit B attached hereto, for inspection, copying, audit and examination at all reasonable times by any duly authorized representative of the Administration. All such books, records and other documents shall be maintained until the completion of an audit of the Project by the EPA or notification from the State or the EPA that no audit is required.

(d) Completion of the Project; Payment of Excess Costs of the Project. The Borrower shall proceed diligently to complete the Project in accordance with the Plans and Specifications, and in accordance with any requirements set forth in the construction and NPDES permits. The Borrower shall satisfy all applicable Requirements for operation of the Project by the completion of the Project, and shall commence operation of the Project promptly upon its completion.

No substantial changes may be made to the Plans and Specifications, the general construction contract or the Project Budget, or in the construction of the Project without the prior written approval of the Administration in its discretion. The Borrower shall pay any amount required for the acquisition, construction and equipping of the Project in excess of the amount available to be loaned to the Borrower hereunder. Upon the completion of the Project, the Borrower shall deliver to the Administration a certificate of the Borrower certifying that the Project was completed as of the date set forth in such certificate.

(e) Cancellation of Loan. As provided by Section 9-1606(e) of the Act, the Borrower acknowledges and agrees that its obligation to make the payments due hereunder and under the Note is cancelable only upon repayment in full of the Loan, and that neither the Administration, the Secretary of the Department, nor the Board is authorized to forgive the repayment of all or any portion of the Loan.

(f) Dedicated Source of Revenue. Pursuant to the Clean Water Act, the Borrower has established one or more dedicated sources of revenue for repayment of the Loan, as described in Exhibit E attached hereto as a part hereof.

(g) Indemnification. To the extent permitted by law, the Borrower releases the Administration, the Fund, the Department, the Board and the State from, agrees that the Administration, the Fund, the Department, the Board and the State shall not have any liability for, and agrees to protect, indemnify and save harmless the Administration, the Fund, the Department, the Board and the State from and against, any and all liabilities, suits, actions, claims, demands, losses, expenses and costs of every kind and nature incurred by, or asserted or imposed against, the Administration, the Fund, the Department, the Board or the State, as a result of or in connection with the Project or the financing thereof. To the extent permitted by law, all money expended by the Administration, the Fund, the Department, the Board or the State as a result of such liabilities, suits, actions, claims, demands, losses, expenses or costs, together with interest at the rate provided in the Note from the date of such payment, shall constitute an additional indebtedness of the Borrower and shall be immediately and without notice due and payable by the Borrower to the Administration.

(h) Non-discrimination. The Borrower certifies that it does not discriminate, and covenants that it shall not discriminate, on the basis of (1) political or religious opinion or affiliation, marital status, race, color, creed or national origin, or (2) sex or age, except where sex or age constitutes a bona fide occupational qualification, or (3) the physical or mental handicap of a qualified handicapped individual. At such times as the Administration requests, the Borrower shall submit to the Administration information relating to the Borrower's operations, with regard to political or religious opinion or affiliation, marital status, physical or mental handicap, race, color, creed, sex, age, or national origin, on a form to be prescribed by the Administration.

(i) Compliance with Requirements. The Borrower acknowledges that the Loan and this Agreement are subject to, and the Borrower agrees to comply with, all Requirements applicable to the Project and the financing thereof, including (without limiting the generality of the foregoing) the Clean Water Act, the Act, and all other applicable State and federal statutes and such



rules, regulations, orders and procedural guidelines as may be promulgated from time to time by the EPA, the Board, the Department, the Administration, or other Governmental Authority.

(j) Annual Audit. Within nine (9) months of the end of each Fiscal Year (unless such period is changed to comply with terms of the Administration's financings, or a Requirement, in which case the Administration shall notify the Borrower in writing), the Borrower shall cause financial statements of the Borrower to be prepared with respect to such Fiscal Year in accordance with generally accepted accounting principles, applicable to governmental units, consistently applied, which financial statements shall be audited by, and accompanied by a report of, an Independent Public Accountant. Such financial statements and report shall be delivered upon completion to the Administration within the nine (9) month period or within thirty (30) days from receipt of a report from the auditor, whichever period is shorter.

(k) Bonds Not to Be Arbitrage Bonds. The Administration expects to deliver on each date of issuance of each series of Tax-Exempt Bonds a certificate (such certificate, as it may be amended and supplemented from time to time in accordance with the Indenture, being referred to herein as the "Section 148 Certificate") that complies with the requirements of Section 148 of the Code or applicable successor provisions ("Section 148") and that states the Administration's reasonable expectations as to relevant facts, estimates and circumstances relating to the use of the proceeds of such Tax-Exempt Bonds or of any monies, securities or other obligations on deposit to the credit of any of the funds and accounts created by the Indenture or this Agreement or otherwise that may be deemed to be proceeds of the Tax-Exempt Bonds within the meaning of Section 148 (collectively, "Bond Proceeds"). The Borrower covenants to provide, or cause to be provided, such facts and estimates as the Administration reasonably considers necessary to enable it to execute and deliver its Section 148 Certificate including (but not limited to) those updates required in the Loan Proceeds Questionnaire and Certificate. The Borrower further covenants that (i) such facts and estimates will be based on its reasonable expectations on the date of issuance of the Tax-Exempt Bonds and will be, to the best of the knowledge of the officers of the Borrower providing such facts and estimates, true, correct and complete as of that date, and (ii) the Borrower will make reasonable inquiries to ensure such truth, correctness and completeness.

The Borrower covenants that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use of the Bond Proceeds that would cause any of the Tax-Exempt Bonds to be "arbitrage bonds" within the meaning of Section 148. The Borrower further covenants that it will comply with those provisions of Section 148 that are applicable to the Tax-Exempt Bonds on the date of issuance of such Tax-Exempt Bonds and with those provisions of Section 148 that may subsequently be lawfully made applicable to such Bonds.

The Administration and the Borrower shall hold and invest Bond Proceeds within their control (if such proceeds are invested) in accordance with the expectations of the Administration set forth in the Section 148 Certificate. If the Administration is of the opinion upon receipt of advice of Bond Counsel that it is necessary further to restrict or limit the yield on the investment of any Bond Proceeds in order to avoid any of the Tax-Exempt Bonds being considered "arbitrage bonds" within the meaning of Section 148, the Borrower shall take such action as is necessary to restrict or limit the yield on such investment, irrespective of whether the Borrower is of the same or a different opinion.

Upon the request of the Borrower and receipt of advice of Bond Counsel the Administration may, and upon receipt of an approving ruling from the Internal Revenue Service or a decision of a court of competent jurisdiction the Administration shall, take such action as is necessary to remove or modify a restriction or limitation on the yield on the investment of any Bond Proceeds that was formerly deemed necessary. The Administration shall incur no liability in connection with action as contemplated herein so long as the Administration acts in good faith.

The Administration contemplates and will use its best efforts to provide for the payment of rebate or penalties in lieu of rebate with respect to the Tax-Exempt Bonds pursuant to Section 148 from the proceeds of the Tax-Exempt Bonds or investment earnings thereon. However, in the event that funds from this source are inadequate to provide for any such payment of rebate or such penalties, the Borrower agrees to pay to the Administration the portion of the rebate or penalties with respect to any Tax-Exempt Bonds fairly allocable to the Loan (as reasonably determined by the Administration) upon written request of the Administration accompanied by an explanation of the method for allocating any such penalties or rebate.

In addition, the Borrower covenants that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use of the monies deemed to be proceeds of any other Tax-Exempt Bonds of the Administration that would cause any such Tax-Exempt Bonds to be "arbitrage bonds" within the meaning of Section 148. The Borrower further covenants that it will comply with those provisions of Section 148 that are applicable to such other Tax-Exempt Bonds on the date of issuance of such Tax-Exempt Bonds and with those provisions of Section 148 that may subsequently be lawfully made applicable to such Tax-Exempt Bonds. The Borrower shall have no obligation under this paragraph unless advised of such in writing by the Administration.

(l) Compliance With Loan Proceeds Questionnaire and Certificate. Without otherwise limiting the covenants or representations set forth in this Agreement or in the Loan Proceeds Questionnaire and Certificate, the representations set forth in Paragraphs 3 through 9, inclusive, and Paragraphs 11 through 14, inclusive, of the Loan Proceeds Questionnaire and Certificate are hereby incorporated as continuing representations of the Borrower, except to the extent that the Administration shall receive an opinion from Bond Counsel to the effect that any variation from such representations shall not adversely affect the excludability of interest on any Tax-Exempt Bonds from gross income for federal income tax purposes. The Borrower shall not take or permit to be taken any action or actions which would cause any Tax-Exempt Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code or which would otherwise cause interest on any Tax-Exempt Bonds to be includable in gross income for federal income tax purposes.

(m) Additional Disclosure Information. The Borrower agrees to provide the Administration with such information regarding the Borrower and its finances as the Administration may from time to time request. The Borrower further acknowledges that the Administration may issue one or more series of Bonds pursuant to the Indenture, and that any or all of such Bonds may be secured in part by repayments of the Borrower with respect to the Loan. The Borrower accordingly agrees to provide to the Administration such information regarding the Borrower and its finances as the Administration may from time to time request for inclusion in the official statements or other offering documents to be distributed in connection with the sale of any such Bonds or any annual

disclosure document or other informational document prepared from time to time by the Administration to be made available to prospective purchasers or holders of any of such Bonds. The Borrower shall also furnish to the Administration at its request a certificate of an Authorized Officer of the Borrower to the effect that any information so provided or included contains no material inaccuracy or omission in light of the purposes for which such information is provided or included. The Borrower agrees to notify the Administration promptly in writing of (a) any changes in the condition or affairs of the Borrower (financial or other) that would cause any information regarding the Borrower so provided or included in an official statement or any subsequent offering document, annual disclosure document or other informational document of the Administration that the Borrower has had an opportunity to review and certify as to its accuracy, to contain a material inaccuracy or omission in light of the purposes for which such information is so included, and (b) any event set forth in Securities and Exchange Commission Rule 15c2-12(b)(5)(i)(C), as such rule may be amended and supplemented.

(n) Related Financing. The Borrower agrees that the proceeds of any Related Financing shall be expended to pay costs of the Project on a monthly basis proportionately with the proceeds of the Loan, taking into account the total amount of the proceeds of such Related Financing available to pay costs of the Project and the maximum amount of the Loan Commitment. The Borrower agrees to provide the Administration upon its request with such information as the Administration deems reasonably necessary to determine whether the Borrower is in compliance with the provisions of this Section 2.02(n).

### ARTICLE III

#### LOAN TO BORROWER; AMOUNTS PAYABLE; GENERAL AGREEMENTS

Section 3.01. The Loan. Subject to the provisions of Sections 3.02, 3.03 and 3.08 hereof, the Administration hereby agrees to advance amounts under this Agreement to the Borrower, and the Borrower agrees to borrow and accept from the Administration amounts advanced under this Agreement, in an aggregate principal amount not to exceed the maximum amount of the Loan Commitment set forth on Exhibit B attached hereto.

Section 3.02. Availability of Funds. The Administration expects to have, and shall use its best efforts to obtain and maintain, funds in an amount sufficient to make advances to the Borrower in accordance with the "Construction Cash Draw Schedule" included in Exhibit C attached hereto. The Borrower recognizes, however, that the Administration is a governmental entity with limited financial resources and that the Administration's ability to make such advances may be adversely affected by events or circumstances beyond the Administration's control. The Borrower accordingly assumes the risk that monies may not be available to make advances of the Loan to the Borrower, and, in such event, the Borrower specifically agrees that the Administration shall have no obligation to lend any amounts to the Borrower in excess of the amount theretofore advanced to the Borrower.

Section 3.03. (a) Requisitions and Disbursements. Amounts shall be loaned from time to time to pay, or reimburse the Borrower for the payment of, Eligible Project Costs, upon receipt of requisitions of the Borrower. Each such requisition shall (i) state the names of the payees, (ii) describe in reasonable detail the purpose of each payment, (iii) state the amount of each payment (supported by appropriate paid invoices or other evidence satisfactory to the Administration that the amount requisitioned has been paid or has been incurred by the Borrower and is then due), (iv) state that the amount so requisitioned constitutes a part of the Eligible Project Costs and (v) state that no Default or Event of Default under this Agreement has occurred and is continuing; provided, that this section shall not apply to advances made or deemed to have been made as provided in Section 3.03(c) hereof. In no event shall the Administration be obligated to advance to the Borrower any amount so long as any Default or Event of Default under this Agreement shall have occurred and be continuing. The Administration shall not be required to advance monies on more than one day in each month, and the Administration shall not be required to advance monies for the Project sooner than, or in an amount greater than, the schedule of disbursements for the Project shown on the "Construction Cash Draw Schedule" included in Exhibit C attached hereto. The Administration may require the Borrower to submit requisitions in advance of each such disbursement date in such manner as shall be reasonably acceptable to the Administration.

(b) Conditions Precedent. Before making the first advance of Loan proceeds, the Administration shall receive the following in form and content satisfactory to the Administration:

(i) copies of the Plans and Specifications and of any Change Orders issued through the date of such advance, the general construction contract, and the Project Budget;

(ii) a survey showing the location of existing and proposed easements, rights-of-way and improvements, and the perimeter boundaries of the land upon which the Project will be located, if any Loan proceeds are to be used for acquisition of the land;

(iii) copies of all building permits, if any, pertaining to the Project;

(iv) cost breakdown in trade form showing all subcontracts which represent at least 10 percent of the costs of the Project, and indicating use of the proceeds of the Loan therefor;

(v) a fully executed copy of any contract for the purchase of real property constituting a portion of the Eligible Project Costs described in Exhibit C; and

(vi) evidence satisfactory to the Administration that the conditions (if any) set forth in Exhibit A to this Agreement have been satisfied.

In addition, it shall be a condition precedent to the Administration's obligation to make any advance of Loan proceeds under this Agreement that no Default or Event of Default shall have occurred and be continuing at the time of any such advance.

(c) Interest During Construction. In the event that the Administration has consented to permit the Borrower to pay interest on the Loan from proceeds of the Loan during all or a portion of the period of time related to construction of the Project (as itemized in Exhibit C) ("Construction Period Interest"), the Administration shall on each February 1 and August 1 during such period advance to the Borrower an amount equal to the interest on the Loan due on such February 1 or August 1 and not theretofore paid by the Borrower. Any such amount of Construction Period Interest advanced by the Administration shall constitute part of the principal amount of the Loan hereunder immediately upon its advance to the Borrower in accordance with this paragraph. Notwithstanding the advance of any Construction Period Interest to the Borrower in accordance with this Section, the Borrower shall pay directly to the Administration the Administrative Fee on the dates and in the amounts set forth in Section 3.04(c), and no amounts shall be advanced under the Loan for the payment of the Administrative Fee.

Section 3.04. (a) Amounts Payable. The Borrower shall punctually repay the Loan in installments on the dates, in the amounts, and in the manner specified in the Note. The outstanding amount of the Loan shall bear interest at a rate per annum equal to the rate or rates of interest set forth in Exhibit B, and shall be payable in accordance with the amortization schedule as specified in Exhibit B attached hereto and more particularly set out in the Note (which amortization schedule is subject to adjustment in accordance with this Agreement and the Note). On or prior to the Loan Closing Date, the Borrower shall execute the Note to evidence such obligation. In addition, the Borrower shall pay to the Administration an Administrative Fee in accordance with paragraph (c) of this Section.

(b) Late Charges. In addition to the payments of principal and interest on the Loan required by paragraph (a) of this Section, the Borrower shall pay (i) a late charge for any payment of principal or interest on the Loan that is received later than the tenth day following its due date, in an amount equal to 5% of such payment, and (ii) interest on overdue installments of principal and (to the extent permitted by law) interest at a rate equal to the Default Rate set forth in Exhibit B. Amounts payable pursuant to this paragraph (b) shall be immediately due and payable to the Administration, and interest at the Default Rate shall continue to accrue on overdue installments of principal and (to the extent permitted by law) interest until such amounts are paid in full.

(c) Administrative Fee. (i) On the date specified in Exhibit B for the first payment of the Administrative Fee and on each August 1 thereafter that the Note remains outstanding and unpaid to and including the date of final maturity of the Note (each such date, an "Administrative Fee Payment Date"), the Borrower shall pay to the Administration an Administrative Fee. Subject to paragraph (iv) below, the Administrative Fee for any Administrative Fee Payment Date shall be the (A) Administrative Fee set forth in Exhibit B or (B) after any date on which the outstanding principal amount of the Loan Commitment is reduced by the Administration by a notice in writing to the Borrower in accordance with this Agreement (other than by reason of the repayment of the principal of the Loan) the Administrative Fee set forth in a notice from the Administration to the Borrower in connection with such reduction. Any adjustment of the Administrative Fee in accordance with the foregoing shall be prospective only, and the Administration shall in no event be obligated to refund any portion of any Administrative Fee payment theretofore received from the Borrower.

(ii) In prescribing the Administrative Fee for a loan with a term of twenty years or more for purposes of paragraph (i) above, the Administration shall employ the following formula, it being understood that any determinations as to the application of such formula shall be within the discretion of the Administration and any Administrative Fee Payment prescribed by the Administration in accordance with the foregoing shall be conclusive and binding upon the Administration and the Borrower: the Administrative Fee equals (A) the aggregate amount of all scheduled payments of principal of and interest on the Note, multiplied by the Percentage Rate (defined in paragraph (iv) below) then in effect, (B) divided by the total number of scheduled Administrative Fee Payment Dates. For example, if the aggregate amount of all scheduled payments of principal of and interest on the Note were \$5,000,000 and the Percentage Rate were 5%, and the total number of scheduled Administrative Fee Payment Dates were 21, the Administrative Fee to be paid each year would equal:

$$\frac{\$5,000,000 \times .05}{21} = \$11,904.76$$

(iii) In prescribing the Administrative Fee for a loan with a term of less than twenty years for purposes of paragraph (i) above, the Administration shall employ the following formula, it being understood that any determinations as to the application of such formula shall be within the discretion of the Administration and any Administrative Fee Payment prescribed by the Administration in accordance with the foregoing shall be conclusive and binding upon the Administration and the Borrower: The Administrative Fee equals (A) the aggregate amount of all scheduled payments of principal of and interest on the Note, multiplied by the Percentage Rate (defined in paragraph (iv) below) then in effect, (B) divided by 20. For example, if the aggregate amount of all scheduled payments of principal of and interest on the Note were \$4,000,000 and the Percentage Rate were 5%, the Administrative Fee to be paid each year would equal:

$$\frac{\$4,000,000 \times .05}{20} = \$10,000.00$$

(iv) The Percentage Rate for each Fiscal Year shall be fixed as a uniform rate for all borrowers receiving loans from the Fund in order to provide sufficient revenues to pay the expenses of the Administration, as approved in the operating budget of the State by the General Assembly of the State; provided, however, that in no event shall the Percentage Rate exceed five percent (5%). In each Fiscal Year the Administration shall review the Percentage Rate then in effect and adjust it for the immediately succeeding Fiscal Year to reflect its approved budget for the immediately succeeding Fiscal Year, a retainage of not more than ten percent (10%) for an operating reserve within the Administration's general account, and other factors as reasonably determined by the Secretary. No later than June 1 following the end of the Session of the General Assembly in each Fiscal Year, the Administration shall notify the Borrower of the newly established Percentage Rate, which shall be the Percentage Rate applicable to the immediately succeeding Fiscal Year, and of any change in the amount of the Administrative Fee payable by the Borrower in such Fiscal Year as a result of the application of such Percentage Rate.

Section 3.05. Sources of Payment. (a) Dedicated Revenues. In accordance with Section 2.02(f) hereof, the principal of and interest on the Note, and any other amounts due from time to time under this Agreement, shall be payable in the first instance from the dedicated source of revenues described in Exhibit E attached hereto.

(b) General Obligation. In addition, the Note constitutes a general obligation of the Borrower, to the payment of which the full faith and credit and taxing power of the Borrower are pledged.

(c) State Withholding. As further security for the payment of the Note and any other amounts due hereunder, the Borrower hereby pledges the following to the Administration and grants a security interest therein to the Administration: (i) as authorized by Section 9-1606(d) of the Act, the Borrower's share of any and all income tax revenues collected by the State from time to time that would otherwise be payable to the Borrower, and (ii) to the maximum extent permitted by law, any and all other tax revenues, grants, and other monies that the Borrower is or may from time to time be entitled to receive from the State or that may at any time be due from the State, or any department, agency, or instrumentality of the State, to the Borrower. The Borrower further agrees that, upon the occurrence of an Event of Default, among other things, the State Comptroller and the State Treasurer may (i) withhold any such amounts that the Borrower is then or may thereafter be entitled to receive and (ii) at the direction of the Administration, apply the amounts so withheld to the payment of any amounts then due or thereafter becoming due hereunder (including, without limitation, payments under the Note) until the Borrower's obligations hereunder have been fully paid and discharged.

Section 3.06. Unconditional Obligations. The obligations of the Borrower to make payments under the Note as and when due and all other payments required hereunder and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional, and shall not be abated, rebated, set-off, reduced, abrogated, terminated, waived, diminished, postponed or otherwise modified in any manner or to any extent whatsoever, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project, commercial frustration of purpose, any change in the laws of the United States of America or of the State or any political subdivision of either or in the rules or regulations of any Governmental Authority, any failure of the Administration, the Department or the State to perform or observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Project, this Agreement, or otherwise or any rights of set-off, recoupment, abatement or counterclaim that the Borrower might otherwise have against the Administration, the Department or the State or any other party or parties; provided, however, that payments hereunder shall not constitute a waiver of any such rights.

Section 3.07. Loan Commitment. The Borrower acknowledges and agrees that the monies attributable to the Borrower's Loan Commitment are the property of the Administration and are held by the Administration to provide for advances to be made to the Borrower in accordance with this Agreement. Without limiting the foregoing, the Borrower acknowledges and agrees that

monies attributable to the Borrower's Loan Commitment may at the discretion of the Administration be pledged or applied to the payment of Bonds.

Section 3.08. Reduction of Loan Commitment. The Loan Commitment is subject to reduction in accordance with the provisions of this Section 3.08.

(a) Any portion of the Loan Commitment not advanced to the Borrower under Section 3.03 of this Agreement at the later of (1) two years from the date of this Agreement and (2) the earlier of one year following (i) actual completion of construction of the Project or (ii) the estimated completion date specified on Exhibit B attached hereto, shall no longer be available to be advanced to the Borrower and the amount of the Loan Commitment shall be reduced by an amount equal to the portion of the Loan Commitment not advanced, unless otherwise agreed to by the Administration in writing.

(b) The Administration may, by a notice in writing delivered to the Borrower, reduce the amount of the Loan Commitment if the Administration should for any reason determine that it will be unable to fund the full amount of the Loan Commitment (including, without limitation, a determination that the Eligible Project Costs to be paid with proceeds of the Loan are expected to be less than the maximum amount of the Loan Commitment), or if it determines that the Borrower is not proceeding satisfactorily and expeditiously with the Project in accordance with schedules and plans provided to the Administration, or if it determines that the Borrower is no longer able to make the certifications required under Section 3.03 in connection with the submission of requisitions. Such notice shall specify the reason for and the amount of the reduction.

(c) Any reduction in the amount of the Loan Commitment shall not affect the obligation of the Borrower to repay the Loan in accordance with the provisions of this Agreement and the Note.

(d) The Administration shall advise the Borrower in writing of any reduction in the amount of the Loan Commitment. In the event of any such reduction, the Borrower shall repay the Loan in accordance with such revised principal amortization schedule (prepared by applying such amount to reduce the installments of principal due under the Note in inverse order of payment, such that any such reduction is applied first to the last installment of principal due under the Note) as may be prescribed by the Administration in accordance with the provisions of the Note executed in connection therewith. The Administration may require, and the Borrower shall deliver, such certificates, documents, opinions and other evidence as the Administration may deem necessary or advisable in connection with any such reduction in the Loan Commitment. If a new Note is delivered in connection with any such reduction, the Administration shall cancel the Note initially delivered to the Administration by the Borrower pursuant to this Agreement.

Section 3.09. Disclaimer of Warranties. The Administration makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for use of the Project or any portion thereof or any other warranty with respect thereto. In no event shall the Administration be liable for any incidental, indirect, special or consequential damages in connection with or arising out of this Agreement or the Project or the



existence, furnishing, functioning or use of the Project or any item or products or services provided for in this Agreement.

Section 3.10. Prepayments. The Loan shall be subject to mandatory prepayment, in whole or in part, as, when and to the extent required by the EPA's State Revolving Fund Program Regulations. Otherwise, the Loan may be prepaid by the Borrower, in whole or in part, only at such times and in such amounts, and upon the payment by the Borrower of such prepayment premium or penalty, as the Director, in his or her discretion, may specify and approve.

Section 3.11. Assignment. Neither this Agreement nor the Note may be assigned by the Borrower for any reason without the prior written consent of the Administration. The Administration may transfer, pledge or assign the Note and any or all rights or interests of the Administration under this Agreement without the prior consent of the Borrower.

## ARTICLE IV

### EVENTS OF DEFAULT AND REMEDIES

Section 4.01. Events of Default. If any of the following events occur, it is hereby defined as and declared to be and to constitute an "Event of Default":

(a) failure by the Borrower to pay any amount required to be paid hereunder or under the Note when due, which failure shall continue for a period of 20 days;

(b) failure by the Borrower to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Agreement, other than as referred to in paragraph (a) of this Section, which failure shall continue for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, is given to the Borrower by the Administration, unless the Administration shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the failure stated in such notice is correctable but cannot be corrected within the applicable period, the Administration will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Borrower within the applicable period and diligently pursued until the Default is corrected;

(c) if (i) at any time any representation made by the Borrower in Section 2.01(f)(ii) is incorrect, or (ii) any other representation made by or on behalf of the Borrower contained in this Agreement, or in any instrument furnished in compliance with or with reference to this Agreement, the Loan Commitment or the Loan, is false or misleading in any material respect on the date on which such representation is made;

(d) if an order, judgment or decree is entered by a court of competent jurisdiction (i) appointing a receiver, trustee, or liquidator for the Borrower; (ii) granting relief in involuntary proceedings with respect to the Borrower under the federal bankruptcy act, or (iii) assuming custody or control of the Borrower under the provision of any law for the relief of debtors, and the order,

judgment or decree is not set aside or stayed within 60 days from the date of entry of the order, judgment or decree; or

(e) if the Borrower (i) admits in writing its inability to pay its debts generally as they become due, (ii) commences voluntary proceedings in bankruptcy or seeking a composition of indebtedness, (iii) makes an assignment for the benefit of its creditors, (iv) consents to the appointment of a receiver, or (v) consents to the assumption of custody or control of the Borrower by any court of competent jurisdiction under any law for the relief of debtors.

Section 4.02. Notice of Default. The Borrower shall give the Administration prompt telephonic notice by contacting the Director of the Administration, followed by prompt written confirmation, of the occurrence of any event referred to in Section 4.01(d) or (e) hereof and of the occurrence of any other event or condition that constitutes a Default or an Event of Default at such time as any senior administrative or financial officer of the Borrower becomes aware of the existence thereof.

Section 4.03. Remedies on Default. Whenever any Event of Default referred to in Section 4.01 hereof shall have happened and be continuing, the Administration shall have the right to take one or more of the following remedial steps:

(a) declare all amounts due hereunder (including, without limitation, payments under the Note) to be immediately due and payable, and upon notice to the Borrower the same shall become immediately due and payable by the Borrower without further notice or demand; and

(b) take whatever other action at law or in equity that may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce the performance and observance of any obligation, agreement or covenant of the Borrower hereunder.

Section 4.04. Attorneys' Fees and Other Expenses. The Borrower shall on demand pay to the Administration the reasonable fees and expenses of attorneys and the Trustee and other reasonable expenses incurred in the collection of any sum due hereunder or in the enforcement of performance of any other obligations of the Borrower upon an Event of Default.

Section 4.05. Application of Monies. Any monies collected by the Administration pursuant to Section 4.03 hereof shall be applied (a) first, to pay any attorneys' fees or other fees and expenses owed by the Borrower pursuant to Section 4.04 hereof, (b) second, to pay interest due on the Loan, (c) third, to pay principal due on the Loan, (d) fourth, to pay any other amounts due hereunder, and (e) fifth, to pay interest and principal on the Loan and other amounts payable hereunder as such amounts become due and payable.

Section 4.06. No Remedy Exclusive; Waiver; Notice. No remedy herein conferred upon or reserved to the Administration is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Default or Event of Default shall impair any such right, remedy or power or shall

be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Administration to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article.

## ARTICLE V

### MISCELLANEOUS

Section 5.01. Notices. All amendments, notices, requests, objections, waivers, rejections, agreements, approvals, disclosures and consents of any kind made pursuant to this Agreement shall be in writing. Any such communication shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the Borrower at the address specified on Exhibit B attached hereto and to the Administration at Maryland Water Quality Financing Administration, 1800 Washington Blvd., Baltimore, Maryland 21230-1718, Attention: Director.

Section 5.02. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Administration and the Borrower and their respective successors and assigns.

Section 5.03. Severability. In the event any provision of this Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

Section 5.04. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 5.05. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland.

Section 5.06. Captions. The captions or headings in this Agreement are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Section 5.07. Further Assurances. The Borrower shall, at the request of the Administration, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements, certificates and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Agreement and the Note.

Section 5.08. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all prior oral and written agreements between the parties hereto

with respect to the Loan. In the event of any inconsistency between the provisions of this Agreement and anything contained in the Application, the provisions of this Agreement shall prevail.

Section 5.09. Amendment of this Agreement. This Agreement, or any part hereof, may be amended from time to time hereafter only if and to the extent permitted by the Indenture and by an instrument in writing jointly executed by the Administration and the Borrower.

Section 5.10. Disclaimer of Relationships. The Borrower acknowledges that the obligation of the Administration is limited to making the Loan in the manner and on the terms set forth in this Agreement. Nothing in this Agreement nor any act of either the Administration or of the Borrower shall be deemed or construed by either of them, or by third persons, to create any relationship of third-party beneficiary, principal and agent, limited or general partnership, or joint venture, or of any association or relationship whatsoever involving the Borrower and the Administration.

Section 5.11. Effective Date. The effective date of this Agreement shall be the date of the Administration's execution.

Section 5.12. Term of this Agreement. Unless sooner terminated pursuant to Article IV of this Agreement, or by the mutual consent of the Borrower and the Administration, this Agreement shall continue and remain in full force and effect until the Loan, together with interest and all other sums due and owing in connection with this Agreement or the Loan, have been paid in full to the satisfaction of the Administration. Upon payment in full of the Loan together with interest and all other sums due and owing in connection with this Agreement or the Loan from any source whatsoever, this Agreement shall be terminated.

Section 5.13. Delegation Not to Relieve Obligations. The delegation by the Borrower of the planning, construction or carrying out of the Project shall not relieve the Borrower of any obligations under this Agreement and any other documents executed in connection with the Loan.

Section 5.14. Additional Terms. This Agreement shall also be subject to the additional terms, if any, set forth in Exhibit A hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the day and year first above written.

(SEAL)

WITNESS: MARYLAND WATER QUALITY FINANCING  
ADMINISTRATION

\_\_\_\_\_  
Jag Khuman  
Director

(SEAL)

ATTEST: BORROWER: \_\_\_\_\_

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

Approved for form and legal sufficiency  
this \_\_\_\_ day of \_\_\_\_\_, 2015  
Approved for form and legal sufficiency  
this \_\_\_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
Local Attorney for  
Borrower  
Helen E. Akparanta  
Senior Counsel/Assistant Attorney General

EXHIBIT A  
to Loan Agreement

Borrower Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Project Name: \_\_\_\_\_

**IF THIS PROJECT IS FINANCED WITH THE USE OF FEDERAL FUNDS UNDER CFDA #: 66.458, THE BORROWER MAY BE SUBJECT TO A SINGLE AUDIT TO BE UNDERTAKEN BY AN INDEPENDENT AUDITOR IN ACCORDANCE WITH UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS, 2 C.F.R. § 200.501. THE BORROWER HEREBY AGREES TO OBTAIN SUCH SINGLE AUDIT, IF REQUIRED BY THE SINGLE AUDIT ACT.**

**CONDITIONS TO INITIAL ADVANCE UNDER SECTION 3.03(b)(vi) OF LOAN AGREEMENT:**

NONE

**ADDITIONAL TERMS APPLICABLE TO LOAN AGREEMENT:**

The provisions of this Exhibit A shall be deemed to be a part of the foregoing Agreement as if set forth in full therein. In the case of any conflict between this Exhibit A and any provision thereof, the provisions of this Exhibit A shall be controlling, notwithstanding any other provisions contained in the Agreement.

1. The first regularly scheduled payment of interest on the Loan shall be due on \_\_\_\_\_.
2. The Borrower agrees to comply with the Davis-Bacon Act requirements of Section 513 of the Federal Water Pollution Control Act for the entirety of construction contract costs of the Project, and shall include specific language regarding compliance in its contracts and subcontracts.
3. The Borrower agrees to comply with the Use of American Iron and Steel requirement of federal law, which provides that all of the iron and steel products used in the Project are produced in the United States, unless a waiver is granted.

EXHIBIT B  
to Loan Agreement

Borrower Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
\_\_\_\_\_  
Project Name: \_\_\_\_\_

**DESCRIPTION OF THE LOAN**

- (1) Project Name(s): \_\_\_\_\_
- (2) Maximum Principal Amount of Loan Commitment: \$ \_\_\_\_\_
- (3) Rate of Interest: \_\_\_\_% (*Based upon \_\_\_\_% of the \_\_\_\_ average of the Bond Buyer 11-Bond Index*)
- (4) Amortization Schedule:
  - (a) \_\_\_\_ years  
\$1,000 Mini Principal Payment Date: \_\_\_\_\_  
Date of First of \_\_\_\_\_ Amortizing Principal Payments: \_\_\_\_\_
  - (b) Level Principal \_\_\_\_\_; or  
Level Debt Service \_\_\_\_\_; or  
Other \_\_\_\_\_
- (5) Annual Administrative Fee: \$ \_\_\_\_\_, beginning August 1, \_\_\_\_\_.
- (6) Estimated Completion Date of Project(s): \_\_\_\_\_
- (7) Default Rate: \_\_\_\_\_% (*Based upon the \_\_\_\_ average of the Bond Buyer 11-Bond Index*)
- (8) Description of Project: \_\_\_\_\_

EXHIBIT C  
to Loan Agreement

Borrower Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
\_\_\_\_\_  
Project Name: \_\_\_\_\_

**PROJECT BUDGET**

Breakdown of Eligible Project Costs:

A. Portion of Eligible Project Costs to be directly financed:

<u>Description</u>	<u>Allocated Amount of Loan*</u>
Eligible Project Costs include administrative and legal expenses, planning/design engineering fees, construction costs, construction phase engineering/inspection fees and contingencies	
<b>Subtotal Loan:</b>	\$ _____

B. Portion of Eligible Project Costs for which Borrower will be reimbursed at closing, which the Borrower hereby certifies were paid or incurred prior to the date of the Agreement, in anticipation of being reimbursed through a loan from the Administration (and subject to compliance with Sections 2.02(l) and 3.03(a) of the Agreement):

<u>Description</u>	<u>Allocated Amount of Loan</u>
Eligible Project Costs include administrative and legal expenses, planning/design engineering fees, construction costs, construction phase engineering/inspection fees and contingencies	
<b>Total Reimbursement at Closing:</b>	\$ _____
<b>Total Loan:</b>	\$ _____



EXHIBIT C  
to Loan Agreement

Borrower Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Project Name: \_\_\_\_\_

C. Construction Cash Draw Schedule\*

Federal Quarter

Cash Disbursements\*

FFY 15 Q2 (Jan 15 – Mar 15)  
FFY 15 Q3 (Apr 15 – June 15)  
FFY 15 Q4 (Jul 15 – Sep 15)  
FFY 16 Q1 (Oct 15– Dec 15)  
FFY 16 Q2 (Jan 16 – Mar 16)  
FFY 16 Q3 (Apr 16 – June 16)  
FFY 16 Q4 (Jul 16 – Sep 16)  
FFY 17 Q1 (Oct 16 – Dec 16)

**Total Disbursements:** \$ \_\_\_\_\_

\* SUBJECT TO CHANGE WITH CONSENT OF THE ADMINISTRATION IN ITS  
DISCRETION UNDER SECTION 2.02(d) OF THIS AGREEMENT

OPINION OF BORROWER'S COUNSEL

[LETTERHEAD OF COUNSEL TO BORROWER]

[CLOSING DATE]

Maryland Water Quality  
Financing Administration  
1800 Washington Blvd.  
Baltimore, Maryland 21230-1718

Ladies and Gentlemen:

We are counsel to [NAME OF BORROWER], a [body politic and corporate and a political subdivision] [municipal corporation] [other appropriate description] of the State of Maryland (the "Borrower") in connection with the loan (the "Loan") by Maryland Water Quality Financing Administration (the "Administration") to the Borrower of funds to finance all or a portion of the costs of a project (the "Project") described in Exhibit B to the Loan Agreement dated as of \_\_\_\_\_, 2015 (the "Agreement") by and between the Administration and the Borrower.

In this connection, we have reviewed such records, certificates, and other documents as we have considered necessary or appropriate for the purposes of this opinion, including, without limitation, the Agreement and the Borrower's \$ \_\_\_\_\_ Water Quality Bond, Series 2015, dated \_\_\_\_\_, 2015 (the "Note"). The Agreement and the Note are referred to herein collectively as the "Loan Documents". Based on such review, and such other considerations of law and fact as we believe to be relevant, we are of the opinion that:

(a) The Borrower is a validly created and existing [body politic and corporate and a political subdivision] [municipal corporation] [other appropriate description] of the State of Maryland, possessing authority to acquire, construct and operate the Project and to enter into the Loan Documents and perform its obligations thereunder.

(b) The Borrower has duly authorized, executed and delivered the Loan Documents and, assuming due authorization, execution and delivery of the Agreement by the Administration, the Loan Documents constitute legal, valid and binding obligations of the Borrower enforceable in accordance with their respective terms.

(c) The Note is a general obligation of the Borrower to which its full faith and credit is pledged, payable if and to the extent not paid from other sources as described in the Agreement from ad valorem taxes, unlimited as to rate and amount, which the Borrower is empowered to levy on all real and tangible personal property within its corporate limits subject to assessment for unlimited taxation by the Borrower.

(d) The Loan Documents and the enforceability thereof are subject to bankruptcy, insolvency, moratorium, reorganization and other state and federal laws affecting the enforcement of creditors' rights and to general principles of equity.

(e) To the best of our knowledge after reasonable investigation, the Borrower has all necessary licenses, approvals and permits required to date under federal, state and local law to own, construct and acquire the Project.

(f) Neither the execution and delivery of the Loan Documents, the consummation of the transactions contemplated thereby, the acquisition and construction of the Project nor the fulfillment of or compliance with the terms and conditions of the Loan Documents conflicts with or results in a breach of or default under any of the terms, conditions or provisions of the charter or laws governing the Borrower (including any limit on indebtedness) or, to the best of our knowledge after reasonable investigation, any agreement, contract or other instrument, or law, ordinance, regulation, or judicial or other governmental order, to which the Borrower is now a party or by which the Borrower or its properties are otherwise subject or bound, and the Borrower is not otherwise in violation of any of the foregoing in a manner material to the transactions contemplated by the Loan Documents.

(g) To the best of our knowledge after reasonable investigation, there is no action, suit, proceeding or investigation, at law or in equity, before or by any court, governmental agency or public board or body pending or threatened against or affecting the Borrower that, if adversely determined, would materially affect the ability of the Borrower to perform its obligations under the Loan Documents, which has not been disclosed in writing to the Administration.

We hereby authorize Bond Counsel to the Administration to rely on this opinion as if we had addressed this opinion to them in addition to you.

Very truly yours,

EXHIBIT E  
to Loan Agreement

Borrower Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Project Name: \_\_\_\_\_

**DESCRIPTION OF DEDICATED REVENUES\***

\* The identification of the dedicated source or sources of revenues above is intended to specify a source or sources of revenues available in sufficient amount to provide for the payment of the costs of operating and maintaining the Project as well as the payment of the costs of debt service of any borrowing incurred to finance the Project. The specification of a dedicated source or sources of revenues above is not intended to constitute an undertaking by the Borrower to pledge, segregate or otherwise set aside any specific funds of the Borrower with the expectation that such funds would be used to pay the debt service on the Loan.

\$(MAX. AMT.)

R-1

REGISTERED

UNITED STATES OF AMERICA  
STATE OF MARYLAND

[NAME OF BORROWER]  
WATER QUALITY BOND, SERIES 2015  
Dated \_\_\_\_\_, 2015

PAYMENTS OF PRINCIPAL AND INTEREST ON THIS BOND ARE MADE  
BY CHECK, DRAFT OR ELECTRONIC FUNDS TRANSFER TO THE  
REGISTERED OWNER AND IT CANNOT BE DETERMINED FROM THE FACE  
OF THIS BOND WHETHER ALL OR ANY PART OF THE PRINCIPAL OF  
OR INTEREST ON THIS BOND HAS BEEN PAID.

REGISTERED OWNER: Maryland Water Quality Financing  
Administration

\_\_\_\_\_, a [body politic and corporate] [municipal corporation] [other appropriate description] of the State of Maryland (the "Borrower"), hereby acknowledges itself obligated to pay to the Registered Owner shown above, the principal amount of \$\_\_\_\_\_ (the "Maximum Principal Amount") or so much thereof as shall have been advanced from time to time under the terms of the Loan Agreement dated as of \_\_\_\_\_, 2015 (the "Loan Agreement") by and between the Borrower and the Maryland Water Quality Financing Administration (the "Administration"), plus interest on the unpaid principal advanced under the terms of the Loan Agreement at the rate of \_\_\_\_\_ per centum (\_\_\_%) per annum.

The principal advanced under the Loan Agreement shall be paid in installments on the dates and in the amounts as set forth in the following schedule, as such schedule may be amended in accordance with the terms hereof:

<u>Due</u> <u>[February 1]</u>	<u>Principal</u> <u>Amount</u>	<u>Due</u> <u>[February 1]</u>	<u>Principal</u> <u>Amount</u>
2016		2025	
2017		2026	
2018		2027	
2019		2028	
2020		2029	
2021		2030	
2022		2031	
2023		2032	
2024		2033	

If the Administration determines at any time to reduce the maximum amount of the Loan Commitment (as defined in the Loan Agreement) in accordance with Section 3.08 of the Loan Agreement, the Maximum Principal Amount shall be reduced accordingly and the Maximum Principal Amount as so reduced shall be amortized in accordance with Section 3.08 of the Loan Agreement. The Administration shall deliver, and the Borrower shall acknowledge in writing, a certificate setting forth such reamortized payment schedule, which shall be attached hereto and shall replace and supersede for all purposes the foregoing payment schedule. Any such reduction shall not affect the obligation of the Borrower to pay the principal of and interest on this bond as and when the same shall become due.

Notwithstanding the foregoing, all outstanding unpaid principal amounts advanced under the Loan Agreement, if not previously due hereunder, shall be due on that date which is 20 years after the date of completion of the Project (as defined in the Loan Agreement), as certified by the Borrower to the Administration pursuant to Section 2.02(d) of the Loan Agreement.

Interest due on the unpaid principal amounts advanced under the Loan Agreement shall accrue on the basis of a 30-day month, 360-day year from the date of the respective advances of such principal amount, and shall be paid on \_\_\_\_\_, 20\_\_, and semiannually thereafter on the 1st day of \_\_\_\_\_ and \_\_\_\_\_ in each year until the principal amount hereof has been paid.

This bond is subject to prepayment only in accordance with Section 3.10 of the Loan Agreement.

Both the principal of and interest on this bond will be paid to the registered owner in lawful money of the United States of America, at the time of payment, and will be paid by electronic funds transfer, or by check or draft mailed (by depositing such check or draft, correctly addressed and postage prepaid, in the United States mail before the payment date) to the registered owner at such address as the registered owner may designate from time to time by a notice in writing delivered to the [INSERT BORROWER'S AUTHORIZED OFFICER].

This bond is issued pursuant to and in full conformity with the provisions of [INSERT BORROWER'S LOCAL ACT(S)] and the Maryland Water Quality Financing Administration Act (codified as Sections 9-1601 to 9-1622, inclusive, of the Environment Article of the Annotated Code of Maryland, as amended), and by virtue of due proceedings had and taken by the Borrower, particularly [AN ORDINANCE AND OR A RESOLUTION] (numbered \_\_\_\_ ) [INSERT BORROWER'S AUTHORIZING ORDINANCE OR RESOLUTION] (collectively, the "Resolution") adopted by Borrower.

This bond, together with the Loan Agreement, evidences the Loan (as defined in the Loan Agreement) to the Borrower from the Maryland Water Quality Financing Administration. In accordance with the Loan Agreement, the principal amount of the Loan, being the amount denominated as principal under this bond, is subject to reduction or adjustment by the Administration in accordance with the Loan Agreement.

The full faith and credit and unlimited taxing power of the Borrower are hereby irrevocably pledged to the prompt payment of the principal of and interest on this bond according to its terms, and the Borrower does hereby covenant and agree to pay the principal of and interest on this bond at the dates and in the manner prescribed herein.

This bond is transferable only after the first principal payment date as set forth above or the date upon which the Maximum Principal Amount has been borrowed, whichever is earlier, upon the books of the Borrower at the office of the [INSERT BORROWER'S AUTHORIZED OFFICERS] by the registered owner hereof in person or by his attorney duly authorized in writing, upon surrender hereof, together with a written instrument of transfer satisfactory to the [INSERT BORROWER'S AUTHORIZED OFFICER], duly executed by the registered owner or his duly authorized attorney. The Borrower shall, within a reasonable time, issue in the name of the transferee a new registered bond or bonds, in such denominations as the Borrower shall by resolution approve, in an aggregate principal amount equal to the unpaid principal amount of the bond or bonds surrendered and with the same maturities and interest rate. If more than one bond is issued upon any such transfer, the installment of principal and interest to be paid on each such bond on each payment date shall be equal to the product of the following formula: the total installment due on each payment date multiplied by a fraction, the numerator of which shall be the principal amount of such bond and the denominator of which shall be the aggregate principal amount of bonds then outstanding and unpaid. The new bond or bonds shall be delivered to the transferee only after payment of any taxes on and any shipping or insurance expenses relating to such transfer. The Borrower may deem and treat the party in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal hereof and interest due hereon and for all other purposes.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of Maryland and the Resolution to exist, to have happened or to have been performed precedent to or in the issuance of this bond, exist, have happened and have been performed, and that the issuance of this bond, together with all other indebtedness of the Borrower, is within every debt and other limit prescribed by said Constitution or statutes.

