|  |
| --- |
|  |

AMENDED AND RESTATED MASTER PAYMENT AND PLEDGE AGREEMENT

Dated as of March 1, 2022

by and between

STATE WATER RESOURCES CONTROL BOARD

and

CALIFORNIA INFRASTRUCTURE AND
ECONOMIC DEVELOPMENT BANK

respecting

California Infrastructure and Economic Development Bank
Clean Water and Drinking Water State Revolving Fund Revenue Bonds

|  |
| --- |
|  |

TABLE OF CONTENTS

Page

Parties 1

Recitals 1

[ARTICLE I

RULES OF CONSTRUCTION; DEFINITIONS](#_Toc533154652)

[Section 1.01. Rules of Construction 2](#_Toc533154653)

[Section 1.02. Definitions 3](#_Toc533154654)

[ARTICLE II

REPRESENTATIONS AND WARRANTIES](#_Toc533154655)

[Section 2.01. Organization of IBank 3](#_Toc533154656)

[Section 2.02. Authorization of IBank 3](#_Toc533154657)

[Section 2.03. No Litigation Involving IBank 4](#_Toc533154658)

[Section 2.04. Organization of the Board 4](#_Toc533154659)

[Section 2.05. Authorization of the Board 4](#_Toc533154660)

[Section 2.06. No Litigation Involving the Board 4](#_Toc533154661)

[ARTICLE III

PLEDGE AND ASSIGNMENT](#_Toc533154662)

[Section 3.01. Pledge and Assignment 5](#_Toc533154663)

[ARTICLE IV

PAYMENTS](#_Toc533154664)

[Section 4.01. Deposit of Pledged Project Obligations and Payments on Pledged Project Obligations 5](#_Toc533154665)

[Section 4.02. Payments to Trustee and IBank 6](#_Toc533154666)

[Section 4.03. Use of Prepayments 6](#_Toc533154667)

[Section 4.04. Unconditional Obligations 6](#_Toc533154668)

[ARTICLE V

COVENANTS AND AGREEMENTS](#_Toc533154669)

[Section 5.01. Financial Covenants; Annual Certifications; Additional Information 7](#_Toc533154670)

[Section 5.02. Tax Covenants 7](#_Toc533154671)

[Section 5.03. Continuing Disclosure Agreement 7](#_Toc533154672)

[Section 5.04. Enforcement of the Pledged Project Obligations 7](#_Toc533154673)

[Section 5.05. Performance of Obligations Under the Indenture 8](#_Toc533154674)

[Section 5.06. Amendment of Pledged Project Obligations 8](#_Toc533154675)

[Section 5.07. Termination of Agreement 8](#_Toc533154676)

[ARTICLE VI

DEFAULT AND REMEDIES](#_Toc533154677)

[Section 6.01. Events of Default 8](#_Toc533154678)

[Section 6.02. Remedies 8](#_Toc533154679)

[Section 6.03. Agreement to Pay Attorneys’ Fees and Expenses 9](#_Toc533154680)

[Section 6.04. Effect of Discontinuance or Abandonment 9](#_Toc533154681)

[Section 6.05. IBank’s and Trustee’s Right to Enforce Rights in Respect of Bonds in Own Name and Without Possession of Bonds 9](#_Toc533154682)

[Section 6.06. No Remedy Exclusive 9](#_Toc533154683)

[Section 6.07. No Delay or Omission to be Deemed Waiver of Default 9](#_Toc533154684)

[ARTICLE VII

EXPENSES; INDEMNIFICATION](#_Toc533154685)

[Section 7.01. Expenses 9](#_Toc533154686)

[Section 7.02. Indemnification 9](#_Toc533154687)

[ARTICLE VIII

MISCELLANEOUS](#_Toc533154688)

[Section 8.01. No Additional Rights or Duties 11](#_Toc533154689)

[Section 8.02. Limited Obligation of the Board 11](#_Toc533154690)

[Section 8.03. Amendments 11](#_Toc533154691)

[Section 8.04. Term of Agreement 12](#_Toc533154692)

[Section 8.05. No Waiver; Remedies 12](#_Toc533154693)

[Section 8.06. Severability 12](#_Toc533154694)

[Section 8.07. Further Assurances 12](#_Toc533154695)

[Section 8.08. Governing Law 12](#_Toc533154696)

[Section 8.09. Notices 12](#_Toc533154697)

[Section 8.10. Execution 13](#_Toc533154698)

Schedule I - Pledged Project Obligations

Schedule II - IBank Services to be Provided to the Board

AMENDED AND RESTATED MASTER PAYMENT AND PLEDGE AGREEMENT

THIS AMENDED AND RESTATED MASTER PAYMENT AND PLEDGE AGREEMENT, dated as of March 1, 2022 (together with any amendments or supplements hereto, this “Agreement”), is by and between the STATE WATER RESOURCES CONTROL BOARD (the “Board”), a State of California (the “State”) agency organized and existing under the laws of the State, and the CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK (“IBank”), a public instrumentality and political subdivision of the State of California, duly organized and validly existing pursuant to the Bergeson-Peace Infrastructure and Economic Development Bank Act, constituting Division 1 of Title 6.7 of the California Government Code (commencing at Section 63000 thereof) (the “Act”).

WHEREAS, the United States of America, pursuant to Title VI of the Federal Water Pollution Control Act, as amended by the Water Quality Act of 1987 (33 U.S.C.A. §§1251 *et seq.*) (commonly known as the “Clean Water Act”), requires each state to establish a revolving fund to be administered by an instrumentality of the state as a condition to receipt of Capitalization Grants under the Clean Water Act; and

WHEREAS, the State has, pursuant to Chapter 6.5 of Division 7 (commencing with Section 13475) of the California Water Code (the “Statute”), established a State Clean Water Program, which includes a clean water state revolving fund (the “CWSRF”), to be used for purposes of the Clean Water Act and the Statute; and

WHEREAS, the United States of America, pursuant to the Safe Drinking Water Act of 1974 (42 U.S.C. § 300 et seq.)(together with the rules and regulations promulgated thereunder, the “Safe Drinking Water Act”), requires each state to establish a revolving fund to be administered by an instrumentality of the state as a condition to receipt of Capitalization Grants under the Safe Drinking Water Act; and

WHEREAS, the State has, pursuant to Chapter 4.5 (commencing at Section 116760) of Division 104 of the California Health and Safety Code, as amended (the “DWSRF Act”), established a drinking water state revolving fund (the “DWSRF”) to be used for purposes of the Safe Drinking Water Act; and

WHEREAS, IBank, pursuant to Chapter 1078, Statutes of 2000 (SB 1571), codified as Article 6 (commencing with Section 63048) to Chapter 2 of the Act, and pursuant to Article 6.3 (commencing with Section 63048.55) of Chapter 2 of the Act, is authorized to issue revenue bonds from time to time, the proceeds of which are to be deposited into the CWSRF or DWSRF; and

WHEREAS, IBank and the Treasurer of the State, as Trustee, entered into the Master Trust Indenture, dated as of November 1, 2012 and the Amended and Restated Master Trust Indenture, dated as of April 1, 2019 (collectively, the “Original Master Trust Indenture”), pursuant to which the IBank issued revenue bonds to finance and refinance the CWSRF program under the CWSRF Act for the purpose of making financial assistance available to Recipients (as defined in the Master Trust Indenture hereinafter referred to); and

WHEREAS, pursuant to the Amended and Restated Master Trust Indenture dated as of March 1, 2022 by and between IBank and the Trustee (together with any amendments or supplements thereto, the “Master Trust Indenture”), IBank is authorized to issue revenue bonds (the “Bonds”) from time to time to, among other things, provide additional funding for the CWSRF program and the DWSRF program for the purpose of making financial assistance available to Recipients; and

WHEREAS, the Board and IBank entered into the Master Payment and Pledge Agreement, dated as of November 1, 2012, as amended pursuant to the Amended and Restated Master Payment and Pledge Agreement, dated as of August 1, 2019, pursuant to which the Board pledged Project Obligations and payments on Pledged Project Obligations to IBank for the benefit of the Owners of the Bonds; and

WHEREAS, in connection with the execution and delivery of the Master Trust Indenture, the Board and IBank desire to enter into this Agreement; and

WHEREAS, the Board has the responsibility to administer the CWSRF and the DWSRF and to provide financial assistance from the CWSRF and the DWSRF to eligible recipients for the construction of eligible projects and to otherwise undertake specified activities relating to the CWSRF and the DWSRF in accordance with the Clean Water Act and the Safe Drinking Water Act, respectively, and the Statute and the DWSRF Act, including but not limited to funding Project Obligations (as herein defined) for the construction of Eligible Projects (as herein defined); and

WHEREAS, pursuant to the Clean Water Act, the Safe Drinking Water Act, the Statute, the DWSRF Act and the Act, the parties hereto now desire to enter into this Agreement providing for the assignment of the Pledged Project Obligations (as defined herein) to IBank which IBank will assign to the Trustee for the benefit of the owners of the Bonds as provided in the Master Trust Indenture and in each case subject to Board Reserved Rights, and other matters in connection therewith, all in accordance with the provisions hereof and thereof;

NOW, THEREFORE, in consideration of the promises and of the mutual representations, covenants and agreements herein set forth, the Board and IBank, each binding itself, its successors and assigns, do mutually promise, covenant and agree as follows:

# RULES OF CONSTRUCTION; DEFINITIONS

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

### Words importing the singular number shall include the plural number and vice versa.

### Words importing the feminine, masculine and neuter genders shall each include correlative words of the other genders.

### All approvals, consents and acceptances required to be given or made by any person or party hereunder shall be at the sole discretion of the person or party whose approval, consent or acceptance is required.

### All references herein to particular articles or sections are references to articles or sections of this Agreement.

### The captions and headings and table of contents herein are solely for convenience of reference and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.

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

### Words permitting discretion means that the Person having such discretion may take such action but is not obligated to do so.

## Definitions. Capitalized terms used herein but not otherwise defined shall have the meaning set forth in the Master Trust Indenture. The following terms shall have the definitions set forth below.

“Agreement” means this Master Payment and Pledge Agreement, as amended or supplemented in accordance with the terms hereof.

“Continuing Disclosure Agreement” means each Continuing Disclosure Agreement by and between the Board and the State Treasurer, as dissemination agent thereunder, for a Series of Bonds.

“CWSRF Pledged Project Obligations” means the Project Obligations set forth on Schedule I-A hereto as such Schedule I-A may be amended from time to time in accordance with Section 8.06 of the Master Trust Indenture.

“DWSRF Pledged Project Obligations” means the Project Obligations set forth on Schedule I-B hereto as such Schedule I-B may be amended from time to time in accordance with Section 8.06 of the Master Trust Indenture.

“Event of Default” means an event of default pursuant to Section 6.1 hereof.

“Master Trust Indenture” means the Master Trust Indenture, dated as of March 1, 2022, by and between IBank and the Trustee, as amended and supplemented.

“Official Statement” means each Official Statement executed by the Board and distributed in connection with the issuance and sale of a Series of Bonds.

“Pledged Project Obligations” means CWSRF Pledged Project Obligations and DWSRF Pledged Project Obligations.

# REPRESENTATIONS AND WARRANTIES

## Organization of IBank. IBank is a public instrumentality and political subdivision of the State, duly organized and validly existing pursuant to the Act. Under the provisions of the Act, IBank has the power to enter into the transactions contemplated by this Agreement and the Indenture and to carry out its obligations hereunder. By proper action, IBank has been duly authorized to execute, deliver and duly perform its obligations under this Agreement and the Indenture. The Agreement will constitute a legal, valid and binding obligation of IBank, enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or limiting creditors’ rights generally.

## Authorization of IBank. Neither the execution and delivery of this Agreement or the Indenture, the consummation of the transactions contemplated hereby or thereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement or the Indenture, conflict with or result in a material breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which IBank is now a party or by which it is bound or constitute a default under any of the foregoing or result in the creation or imposition of any prohibited lien, charge or encumbrance upon any of the property or assets of IBank under the terms of any instrument or agreement, which breach, default, lien, charge or encumbrance may materially and adversely affect the transactions contemplated by this Agreement.

## No Litigation Involving IBank. To the current actual knowledge of IBank, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or threatened against IBank, nor is there any basis therefor (i) affecting the creation, organization or existence of IBank or the title of its officers to their respective offices, (ii) seeking to prohibit, restrain or enjoin the execution of this Agreement or the Indenture, or (iii) contesting the ability of IBank to enter into or perform its obligations under this Agreement or any agreement or instrument relating to the transactions contemplated by this Agreement which, if determined adversely to IBank, would have a material adverse effect on IBank’s ability to consummate the transaction contemplated by this Agreement or the Master Trust Indenture.

## Organization of the Board. The Board is a public instrumentality and political subdivision of the State of California, duly organized and validly existing pursuant to Article 3 of Chapter 2 of Division 1 (commencing with Section 174) of the California Water Code. Under the provisions of the Statute and the DWSRF Act, the Board has the power to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. By proper action, the Board has been duly authorized to execute, deliver and duly perform its obligations under this Agreement and the Indenture. The Agreement will constitute a legal, valid and binding obligation of the Board, enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or limiting creditors’ rights generally.

## Authorization of the Board. Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby or thereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Board is now a party or by which it is bound or constitute a default under any of the foregoing or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Board under the terms of any instrument or agreement.

## No Litigation Involving the Board. There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or, to the knowledge of the Board, threatened against the Board, nor is there any basis therefor (i) affecting the creation, organization or existence of the Board or the title of its officers to their respective offices, (ii) seeking to prohibit, restrain or enjoin the execution of this Agreement or the Indenture or the pledge of Pledged Project Obligations as provided herein, or (iii) contesting the ability of the Board to enter into or perform its obligations under this Agreement or any agreement or instrument relating to any of the foregoing or used or contemplated for use in the consummation of the transactions contemplated by any of the foregoing.

# PLEDGE AND ASSIGNMENT

## Pledge and Assignment.  The Board hereby pledges, assigns and transfers to IBank, in consideration of the receipt of the proceeds of each Series of Bonds in accordance with the provisions of the Master Trust Indenture all of the Board’s right, title and interest in and to the Pledged Project Obligations, including all amounts received from time to time thereon, excluding Board Reserved Rights and amounts in the funds and accounts established under Master Trust Indenture controlled by Board, subject to application in accordance with Sections 6.02, 6.04 and 6.05 of the Master Trust Indenture. IBank hereby accepts the above pledge, assignment and transfer.

### The Board may release Pledged Project Obligations from the lien of this Agreement so as to become Excluded Pledged Project Obligations and substitute and add Project Obligations to the lien of this Agreement, all to the extent provided in Section 8.06 of the Master Trust Indenture. The Master Pledge and Payment Agreement shall be deemed amended upon providing and filing with the Trustee, IBank and each Rating Agency then rating the Bonds a Board Officer Certificate which provides for a revised Schedule I to the Master Payment and Pledge Agreement, in accordance with Section 8.06 of the Master Trust Indenture.

### As security for the payment of the Bonds, pursuant to the Master Trust Indenture the IBank has assigned to the Trustee the Pledged Assets for the benefit of the Owners of the Bonds. The IBank hereby directs the Board to make the payments required to be made hereunder directly to the Trustee as more fully set forth in the Master Trust Indenture. The Board hereby agrees to such assignment and agrees to make such payments directly to the Trustee. The payments derived from the Pledged Project Obligations shall be applied and the rights so assigned shall be exercised by the IBank and the Trustee as provided in the Master Trust Indenture.

### IBank shall not create a pledge, lien or charge upon the Pledged Assets other than as provided in this Master Trust Indenture; provided that, a pledge, lien or charge subject and subordinate to the pledge and lien created pursuant to the Master Trust Indenture may be created with the prior written consent of the Board.

### The Board acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Board the right to receive brokerage confirmations of security transactions as they occur in connection with investments made by the Trustee pursuant to the Master Trust Indenture, the Board specifically waives receipt of such confirmations to the extent permitted by law.

### To the extent permitted by law, the Trustee in performing any duties as provided in the Master Trust Indenture and herein shall have the rights and immunities including, but not limited to, exculpations and indemnifications, of the Trustee as set forth in the Master Trust Indenture to the same extent and as fully for all intents and purposes as though such rights and immunities had been set forth herein.

# PAYMENTS

## Deposit of Pledged Project Obligations and Payments on Pledged Project Obligations. All amounts received as the principal of and interest on the CWSRF Pledged Project Obligations and other amounts received by the Board on account of the CWSRF Pledged Project Obligations (except Additional Payments) shall immediately be deposited and maintained by the Board in the Related Clean Water Bond Proceeds Fund and the Clean Water Restricted Assets Fund, subject to the appropriate procedures of the Controller of the State, as provided in the Master Trust Indenture. All amounts received as the principal of and interest on the DWSRF Pledged Project Obligations and other amounts received by the Board on account of the DWSRF Pledged Project Obligations (except Additional Payments) shall immediately be deposited and maintained by the Board in the Related Drinking Water Bond Proceeds Fund and the Drinking Water Restricted Assets Fund, subject to the appropriate procedures of the Controller of the State, as provided in the Master Trust Indenture. The Board shall allocate the amount of each Pledged Project Obligation which is equal to the Non-Proceed Percentage and the Proceed Percentage, provided that amounts received on a Pledged Project Obligation which was financed in whole or in part from proceeds of Bonds after such time as the Related Series of Bonds are paid or defeased shall be deposited into a Restricted Assets Fund. The Board shall promptly notify the IBank and the Trustee if and to the extent that any payments made on Pledged Project Obligations shall be less than the full amounts due thereunder. Any payments received by the Board under any Pledged Project Obligation which are Additional Payments shall be held by the Board free and clear of the lien of this Agreement and applied by the Board for any lawful purpose.

## Payments to Trustee and IBank. The Board shall pay to the Trustee, as assignee of the IBank, solely from available amounts derived from Pledged Assets such amounts as shall be due and payable to the Trustee for amounts payable with respect to a Series of Bonds to fund CWSRF Bond Funded Project Obligations as provided in Sections 6.04(b), 6.06 and 6.09 of the Master Trust Indenture. The Board shall pay to the Trustee, as assignee of IBank, solely from available amounts derived from Pledged Assets such amounts as shall be due and payable to the Trustee for amounts payable with respect to a Series of Bonds to fund DWSRF Bond Funded Project Obligations as provided as provided in Sections 6.04(d), 6.06 and 6.09 of the Master Trust Indenture. The Board shall pay to the IBank from the respective Administrative Costs amounts due to IBank for its Bond Expenses when due. The IBank’s fees shall be paid in accordance with Schedule II, which Schedule II may be amended as provided in Section 8.03 hereof.

## Use of Prepayments. At such time as the Board receives a Prepayment under any Pledged Project Obligations, it shall allocate the amount of each such Prepayment which is equal to the Proceed Percentage and the Non-Proceed Percentage and shall deposit the amount allocated to the Proceed Percentage into the Related Bond Proceeds Fund and the amount equal to the Non-Proceed Percentage into the Related Prepayment Fund, as provided in the Master Trust Indenture.

## Unconditional Obligations. The obligations of the Board to make the payments required by Section 4.02 of this Agreement and Section 6.04 of the Master Trust Indenture and to perform and observe the other agreements contained in this Agreement and the Master Trust Indenture shall be absolute and unconditional, irrespective of any defense or any rights of set-off, recoupment or counterclaim it might otherwise have against IBank or the Trustee. Until the principal of, and premium, if any, and interest on the Bonds have been fully paid, or provision for the payment thereof has been made as required by Section 12.01 of the Master Trust Indenture, the Board (a) shall make all payments required to be made by the Board, free of any deductions and without abatement, diminution or set-off, pursuant to this Agreement, (b) shall perform and observe all of its other covenants contained in this Agreement, and (c) shall not terminate this Agreement for any cause, including, without limitation, the occurrence of any act or circumstances that may constitute failure of consideration, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State, or any political subdivision of either of these, or any failure of IBank to perform and observe any covenant, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement or the Indenture.

# COVENANTS AND AGREEMENTS

## Financial Covenants; Annual Certifications; Additional Information.

### The Board covenants and agrees at all times to keep, or cause to be kept, proper books of records and accounts, prepared in accordance with generally accepted accounting principles, in which complete and accurate entries shall be made of all transactions of or in relation to the business, properties and operations of the funding of Project Obligations acquired in whole or in part with the proceeds of the Bonds, and Pledged Project Obligations pledged and assigned to IBank hereunder. Such books of record and account shall be available for inspection by IBank or the Trustee, and the duly authorized agents of either of them, at reasonable hours and under reasonable circumstances.

### The Board shall provide to the Trustee and IBank a copy of the annual report prepared in accordance with each Continuing Disclosure Agreement and each Coverage Test schedule prepared in accordance with the Master Trust Indenture. The Trustee shall not be responsible for reviewing such annual reports or schedules.

### The Board shall provide to IBank such additional information as may be reasonably requested from time to time by IBank.

## Tax Covenants. The Board agrees to comply with each Related Tax Certificate in order that interest on the Tax-Exempt Bonds is and remains tax-exempt. The Board shall take, and shall require each Recipient to take, the actions required for the interest on any Tax-Exempt Bonds to be and remain excluded from gross income of the Related Series of Bond Owners for federal income tax purposes and shall not take, or knowingly permit any Recipient to take, any action that would cause interest on Related Series of Bonds to be included in gross income of the Related Series of Bond Owners thereof for federal income tax purposes or would cause the Related Series of Bonds to be or become “private activity bonds” within the meaning of Section 141 of the Code. The Board shall comply with all the rebate requirements imposed under Section 148(f) of the Code that are necessary to preserve the exclusion of interest on any Tax-Exempt Bonds from gross income of the Related Series of Bond Owners thereof for federal income tax purposes, including (as applicable) the requirement to make periodic calculations of the rebate amount as provided in the Related Tax Certificate and the requirement to make all required rebate payments to the United States. The Board shall not make any investment of funds or take, or knowingly permit it or any Recipient to take, any action that would cause any Tax-Exempt Series of Bonds to become “arbitrage bonds” within the meaning of Section 148 of the Code.

## Continuing Disclosure Agreement. The Board hereby covenants and agrees to comply with the continuing disclosure requirements with respect to the Bonds as set forth in a Continuing Disclosure Agreement for each Series of Bonds and to provide to IBank each report or notice provided by the Board under a Continuing Disclosure Agreement. Notwithstanding any other provision of this Agreement, failure of the Board to comply with the provisions of this Section shall not be considered an Event of Default; provided, however, the Trustee or any Owner may take such actions as may be necessary and appropriate, as specified in such Continuing Disclosure Agreement.

## Enforcement of the Pledged Project Obligations. The Board agrees to monitor each Recipient’s performance under the Pledged Project Obligations and to exercise all rights and remedies under any statute, rule, or agreement to ensure the timely performance by the Recipient and the timely payment of all amounts due under the Pledged Project Obligations. The Board shall promptly notify the IBank and the Trustee if and to the extent that any payment due on Pledged Project Obligations is either delinquent or less than the full amounts due thereunder. The Board shall diligently enforce, and take all reasonable steps, actions and proceedings necessary for the enforcement of, all terms, covenants and conditions of all Pledged Project Obligations. In furtherance of the pledge hereby granted by the Board of the Pledged Project Obligations, the Board agrees to provide access to IBank and the Trustee to the Pledged Project Obligations upon reasonable notice at the office of the Board during normal business hours.

## Performance of Obligations Under the Indenture. The Board agrees to perform the obligations imposed on it under the Indenture.

## Amendment of Pledged Project Obligations. The Board shall not amend a Pledged Project Obligation in a manner which would materially adversely affect the payment obligations of the Board hereunder.

## Termination of Agreement. After (a) payment in full of the principal of, premium, if any, and interest on, the Bonds, or provision for such payment, shall have been made as provided in the Indenture, (b) payment, or provision for payment satisfactory to the Trustee and the IBank, of the fees, charges and expenses of the Trustee and IBank in accordance with the Indenture, and (c) payment, or provision for payment satisfactory to the affected parties, of all other amounts required to be paid under this Agreement and the Indenture by the Board, this Agreement and the pledge and assignment of the Pledged Project Obligations contained herein shall terminate.

# DEFAULT AND REMEDIES

## Events of Default. Each of the following events shall constitute and is referred to in this Agreement as an “Event of Default”:

(i) the pledge and assignment created by this Agreement shall at any time and for any reason cease to be or fail to constitute a valid pledge hereunder;

(ii) this Agreement shall at any time after its execution and delivery and for any reason cease to be in full force and effect, or shall be declared to be null and void;

(iii) a failure by the Board to make any of the payments, to the extent that amounts are available in the Restricted Assets Fund established under the Master Trust Indenture to make such payments when due as required pursuant to Section 4.02 hereof; or

(iv) a failure by the Board to observe and perform any covenant, condition, agreement or provision contained in this Agreement on the part of the Board to be observed or performed, which failure shall continue for a period of 60 days after written notice, specifying such failure and requesting that it be remedied, shall have been given to the Board by the Trustee or IBank.

## Remedies. Upon the happening and continuance of any Event of Default, IBank and the Trustee, as assignee, may enforce payment or other performance by the Board by mandamus or other appropriate proceeding for the enforcement of any other legal or equitable remedy as IBank or the Trustee, respectively, shall deem effectual in support of its rights or duties hereunder, including to direct transfer of all amounts then and thereafter to be held in the Restricted Assets Fund to the Trustee to be held for the benefit of the Owners of the Bonds and applied as provided in this Master Trust Indenture and any Series Indenture. No delay or omission of IBank or the Trustee to exercise any right or power arising from any default or acquiescence therein, and every power and remedy given by this Section 6.02 may be exercised from time to time and as often as shall be deemed expedient.

## Agreement to Pay Attorneys’ Fees and Expenses. In the event the Board should default under any of the provisions of this Agreement, including the failure to perform an obligation imposed on it under the Indenture pursuant to Section 5.05 hereof, whether or not such default constitutes an Event of Default hereunder, and IBank or the Trustee should employ attorneys, including, in the case of IBank, the State Attorney General’s Office and its internal counsel, or incur other expenses for the collection of the payments due under this Agreement or the enforcement of performance or observance of any obligation or agreement on the part of the Board herein contained, the Board agrees to pay to IBank and the Trustee the reasonable fees and expenses of such attorneys and such other reasonable expenses so incurred by IBank or the Trustee.

## Effect of Discontinuance or Abandonment. In case any proceeding taken by IBank or the Trustee on account of any Event of Default shall have been discontinued or abandoned for any reason, or shall have been determined adversely to IBank or the Trustee, as applicable, then and in every such case IBank and the Trustee shall be restored to their former positions and rights under the Indenture and this Agreement, and all rights, remedies and powers of the Trustee, the Owners of the Bonds and IBank shall continue as though no such proceeding had been taken.

## IBank’s and Trustee’s Right to Enforce Rights in Respect of Bonds in Own Name and Without Possession of Bonds. All rights of action under this Agreement which are enforceable by IBank or the Trustee in respect of the Bonds may be enforced by it without the possession of any of the Bonds or the production thereof at the trial or other proceedings relative thereto, and any such suit, action or proceeding instituted by IBank or the Trustee shall be brought in its name, as trustee, for the equal and ratable benefit of the Owners of the Bonds, subject to the provisions of the Master Trust Indenture.

## No Remedy Exclusive. No remedy herein conferred upon or reserved to the Trustee, IBank or to the Owners of the Bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder.

## No Delay or Omission to be Deemed Waiver of Default. No delay or omission by the Trustee, IBank or of any Owner of the Bonds to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default, or an acquiescence therein; and every power and remedy given to the IBank or the Trustee and to the Owners of the Bonds, respectively, may be exercised from time to time as often as may be deemed expedient.

# EXPENSES; INDEMNIFICATION

## Expenses. The Board covenants and agrees to pay, and to indemnify IBank and the Trustee against, all costs and charges, including reasonable fees and disbursements of attorneys, accountants, consultants and other experts, incurred in good faith in connection with this Agreement, the Bonds and the Master Trust Indenture.

## Indemnification. To the extent permitted by law, the Board releases IBank and the Trustee from, and covenants and agrees that neither IBank nor the Trustee shall be liable for, and covenants and agrees to indemnify and hold harmless IBank and the Trustee and their members, past, present and future directors, officers, employees and agents and each person, if any, who controls (as such term is defined in Section 15 of the Securities Act of 1933, as amended (the “Securities Act”)) (collectively, the “Indemnified Parties”) from and against any and all judgments, losses, claims, damages, liabilities, joint or several, or expenses, of every conceivable kind, character and nature whatsoever arising out of, resulting from, or in any way connected with:

### a Pledged Project Obligation, or the conditions, occupancy, use, possession, conduct or management of, or work done in or about, or from the planning, design, acquisition, installation or construction of, a Pledged Project Obligation or any part thereof;

### the issuance of the Bonds or any certifications or representations made in connection therewith by the Board and the carrying out of any of the transactions contemplated by the Bonds, the Master Trust Indenture or this Agreement;

### the Trustee’s acceptance or administration of the trusts under the Master Trust Indenture, or the exercise or performance of any of its powers or duties under the Indenture; or

### any untrue statement or alleged untrue statement of a material fact contained in an Official Statement (except for any information provided by IBank or the underwriters for such Series of Bonds) or that arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading with respect to the information contained therein (except as aforesaid) utilized by any underwriter in connection with the sale or offering of such Series of Bonds; provided that in each case such indemnity shall not be required for damages that result from the willful misconduct or negligence on the part of the party seeking such indemnity; and, provided, further that, the Board shall not be liable to any Indemnified Person in any such case to the extent that any such loss, claim, damage or liability arises out of, or is based upon, any information furnished by such Indemnified Person specifically for inclusion in the Official Statement, subject to the Board’s acknowledgement that the IBank and its officers, agents or employees have not provided any information for the Official Statement except as aforesaid and none of the State Treasurer, its officers, agents or employees has provided any information for the Official Statement.

The Board further covenants and agrees to pay or to reimburse the Indemnified Parties for any and all costs, attorneys’ fees, liabilities or expenses reasonably incurred in connection with investigating, defending or preparing to defend against or otherwise in connection with investigating, any such losses, claims, damages, liabilities, expenses or actions, except to the extent that the same arise out of the willful misconduct or negligence of the party claiming such payment or reimbursement. The provisions of this Section shall survive the payment and retirement of the Bonds, the termination of this Agreement and the resignation or removal of the Trustee.

Promptly after receipt by an Indemnified Person of notice of the assertion of any claim or the commencement of any action, such Indemnified Person shall, if a claim in respect thereof is to be made against the Board, notify the Board in writing of the assertion or commencement thereof; provided, however, that the failure to provide such notice shall not affect the obligation to indemnify hereunder. In case any such action shall be brought against any Indemnified Person, and such Indemnified Person shall notify the Board of the commencement thereof, the Board shall be entitled to participate in and, to the extent that either wishes, to assume the defense thereof, with counsel reasonably satisfactory to such Indemnified Person, and after notice from the Board to such Indemnified Person of its election so to assume the defense thereof, the Board shall not be liable to such Indemnified Person under this Section 7.02 hereof for any legal or other expenses subsequently incurred by such Indemnified Person in connection with the defense thereof; provided, however, that if (a) the named parties to any such action (including any impleaded parties) include the Indemnified Person and the Board, and the Indemnified Person reasonably concludes that there may be one or more legal defenses available to it which are different from or additional to those available to the Board, (b) representing multiple clients would create a conflict of interest or the appearance of a conflict of interest for counsel, or (c) the office of the Attorney General of the State of California notifies the Board that it will assume the defense of IBank and/or the State Treasurer, then the Indemnified Person in any such case shall have the right to select separate counsel to assume such legal defense and to otherwise participate in the defense of such action on behalf of itself; provided further, however, that the Board shall not, in connection with any one such action or separate but substantially similar or related actions arising out of the same general allegations or circumstances, be liable for the fees and expenses of more than one separate firm of attorneys at any point in time for any such Indemnified Person.

No Indemnified Person shall, without the prior written consent of the Board, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the Indemnified Person is an actual or potential party to such claim or action) unless (i) such settlement, compromise or consent includes an unconditional release of the Board from all liability arising out of such claim, action, suit or proceeding and (ii) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of the Board.

The Board shall not, without the prior written consent of the Indemnified Persons, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the Board is an actual or potential party to such claim or action) unless (x) such settlement, compromise or consent includes an unconditional release of the Indemnified Persons from all liability arising out of such claim, action, suit or proceeding and (y) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person.

# MISCELLANEOUS

## No Additional Rights or Duties. This Agreement shall not confer any rights nor impose any duties, obligations or responsibilities upon IBank or the Trustee beyond those expressly provided in the Indenture and hereunder. This Agreement shall not impose any duties, obligations or responsibilities upon the Board beyond those expressly provided in this Agreement.

## Limited Obligation of the Board. The Board shall not be obligated to pay any amounts hereunder except from Pledged Assets and neither the faith and credit nor the taxing power of the State, or of any political subdivision thereof, is pledged to the payment of amounts due by the Board hereunder. The Bonds are payable only out of funds pledged under this Agreement and the Master Trust Indenture. The Board has no taxing power.

## Amendments. This Agreement may be amended and any provision hereunder may be waived by the Board and IBank without the consent of the Owners of any Bonds, except that no amendment or waiver of any provision of this Agreement shall be effective if the same shall have a material adverse effect, as determined by IBank, on the interest of the Owners of any Bonds, unless such amendment or waiver shall be approved by 60% of the affected Owners and then such amendment or waiver shall be effective only in the specific instance and for the specific purpose for which it was made. No amendment or waiver of any provision of this Agreement shall be effective unless the same shall be in writing and signed by the parties hereto.

## Term of Agreement. The term of this Agreement shall commence as of the date first above written and shall continue in effect until terminated in accordance with Section 5.07 hereof.

## No Waiver; Remedies. No failure on the part of any party to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right and no single or partial exercise of any right under this Agreement shall preclude any further exercise of such right or the exercise of any other right. The remedies provided in this Agreement shall be cumulative and not exclusive of any other remedies provided by law.

## Severability. If any one or more of the terms, provisions, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, then each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement shall not be affected and shall be valid and enforceable to the fullest extent permitted by law.

## Further Assurances. The Board will make, execute and deliver any and all such further resolutions, instruments and assurances to IBank as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Agreement, and to further assure and confirm the rights and benefits intended to be conveyed pursuant hereto.

## Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State. This Agreement shall be enforceable in the State, and any action arising out of this Agreement shall be filed and maintained in Sacramento County Superior Court, Sacramento County, California.

## Notices. All notices, certificates or other communications hereunder shall be sufficiently given, and shall be deemed given, when delivered in writing to the address of the identified party or parties set forth below:

Board:

State Water Resources Control Board
Division of Financial Assistance
1001 I Street, 16th Floor
Sacramento, California 95814

Attn: Deputy Director

IBank:

California Infrastructure & Economic Development Bank

1325 J Street, Suite 1300

Sacramento, California 95814
Attn: Bond Unit Manager

Trustee:

Office of the State Treasurer
915 Capitol Mall, Room 261
Sacramento, California 95814

Any of the foregoing parties may designate any further or different addresses to which subsequent written notices, certificates or other communications shall be sent, by notice in writing given to the other parties hereto.

## Execution. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and all together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered by their duly authorized representatives as of the date first written above.

|  |  |
| --- | --- |
|  | STATE WATER RESOURCES CONTROL BOARD |
|  |  |  |
|  |  |  |
|  | By: |  |
|  |  | Authorized Signatory |
|  |  |  |
|  |  |  |
|  |  |  |
|  | CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK |
|  |  |  |
|  |  |  |
|  | By: |  |
|  |  | Clint Kellum,Chief Deputy Executive Director |

SCHEDULE I

PLEDGED PROJECT OBLIGATIONS

SCHEDULE II

IBANK SERVICES TO BE PROVIDED TO THE BOARD

Post-Bond Issuance Services

To the extent requested by the Board and agreed to by IBank, IBank shall perform and/or engage consultants (IBank Direct Advisors) to perform any of the following services following issuance of a Series of Bonds but only to the extent that costs for such services are permitted by the U.S. Environmental Protection Agency regulations applicable to the CWSRF and the DWSRF:

**The Board hereby acknowledges that by providing assistance with any of the following IBank is in no way accepting the responsibilities of the Board. In such cases, the Board continues to be the obligated party under all relevant documents.**

A. Continued compliance with tax law requirements, including but not limited to, private activity issues.

B. Use of bond proceeds analysis and compliance verification.

C. Arbitrage/rebate analysis and reports.

D. Compliance with special rules for pooled bond issuances, including analysis and bond redemptions.

E. Record retention, including but not limited to analysis of allocations of bond proceeds to expenditures or records maintenance.

F. Disclosure requirements pursuant to a Continuing Disclosure Agreement including, but not limited to, preparation and/or submittal of annual disclosure reports, audits and preparation and/or submittal of events notices.

G. Information required to be filed or submitted with other entities such as the Trustee, rating agencies, bond insurer, credit enhancer, the State of California or other entity.

H. Investment of bond funds.

I. Development of or updates to bond-related policies, including but not limited to, debt management, underwriting, investment and auditor selection/retention.

J. Training of the Board’s staff on issues involving the Bonds, tax-exempt bonds, municipal credit or other bond-related subjects.

K. Periodic demand analysis, financial modeling, pooled bond structuring and timing of issuances of a Series of Bonds.

L. Selection, appointment or retention of Direct Advisors to the Board.

M. Defeasance or redemption of Bonds.

N. Other bond-related services, directions, consents and undertakings deemed necessary or appropriate.

IBank staff costs for the foregoing services shall be computed in accordance with the provisions of the State Administrative Manual governing the State’s full cost recovery policy and central services costs then in effect. As of the date hereof, such provisions are set forth in Sections 8752 and 8752.1 of the State Administrative Manual.