

The Narragansett Bay Commission  
One Service Road  
Providence, RI 02905

(401) 461-8848  
(401) 461-6540 FAX



Vincent J. Mesolella  
Chairman

Raymond J. Marshall, P.E.  
Executive Director

June 29, 2015

Luly Massaro, Commission Clerk  
Rhode Island Public Utilities Commission  
89 Jefferson Boulevard  
Warwick, RI 02888

Reference: Docket D-15-20 – Narragansett Bay Commission

Dear Ms. Massaro:

Enclosed please find an original and four (4) copies of the following:

1. Response to Hearing Officer's Record Request.

Please note that an electronic copy of this filing has been sent to the service list. Thank you for your attention to this matter.

Sincerely,



Karen L. Giebink  
Director of Administration and Finance

STATE OF RHODE ISLAND  
DIVISION OF PUBLIC UTILITIES  
AND CARRIERS  
DOCKET D-15-20  
Response Of The Narragansett  
Bay Commission  
To Hearing Officer's Record Request

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**RR-1:** Please quantify the interest payments for the proposed loan over a twenty year amortization period and a thirty year amortization period.

**Response:** Estimated interest cost for 30 year amortization: \$22,095,323  
Estimated interest cost for 20 year amortization: \$11,855,589

**Prepared by:** William Fazioli

STATE OF RHODE ISLAND  
DIVISION OF PUBLIC UTILITIES  
AND CARRIERS  
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To Hearing Officer's Record Request

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**RR-2:** Please provide a copy of the draft loan agreement for the proposed borrowing.

**Response:** Please see attached.

**Prepared by:** Karen Giebink

RHODE ISLAND CLEAN WATER FINANCE AGENCY  
CLEAN WATER STATE REVOLVING FUND  
LOAN AGREEMENT

This AGREEMENT is entered into as of the \_\_\_th day of June, 2015 between the Rhode Island Clean Water Finance Agency (the "Agency") and the Narragansett Bay Commission (the "Borrower") in accordance with Title VI of the Federal Clean Water Act, Public Law 112-74, Title 46-25 of the Rhode Island General Laws (the "Borrower Act"), and Title 46-12.2 of the Rhode Island General Laws (the "Act") in order to finance, to the extent of the aggregate amount of the loans made hereunder, a Water Pollution Abatement Project (the "Project") now being undertaken by the Borrower. The Project is described in Exhibit A.

ARTICLE I  
THE LOAN

1.1. The Agency agrees to and does hereby loan to the Borrower, and the Borrower agrees to and does hereby borrow from the Agency, in accordance with the terms of this Agreement, the principal sum of Forty-one Million Seven Hundred Fifty Three Thousand Five Hundred Dollars (\$41,753,500) (the "Loan"), the proceeds of which shall be used to finance the project or projects identified on Exhibit A attached hereto. Subject to Sections 2.3 and 7.3 herein, Nine Hundred Forty One Thousand Dollars (\$941,000) of the Loan (the "Green Loan") will be used to finance the Project or Projects identified on Exhibit A as green project reserve projects (as designated by the Rhode Island Department of Environmental Management (the "DEM")) (the "Green Project Reserve Projects"). Five Hundred Twelve Thousand Seventy Dollars (\$512,070) of the Green Loan will be forgiven in accordance with the schedule set forth

in Exhibit A attached hereto (the “Principal Forgiveness Subsidy”), using a portion of the proceeds of the FY 2014 Clean Water State Revolving Fund Capitalization Grant (the “Capitalization Grant”) awarded to the State of Rhode Island. The Borrower shall repay the Loan, with interest thereon, in annual installments as provided in this Agreement and in the form of the Revenue Bond, described below. The proceeds of the Loan shall be disbursed hereunder by the Agency to the Borrower, or on its order, on a periodic basis, as requested by the Borrower, but not more frequently than bi-weekly, subject to the approval of the amount of each disbursement by the Agency and based on the DEM’s periodic inspection and approval of construction completed to date.

1.2. The Loan shall be represented by a bond of the Borrower (the "Revenue Bond") issued under and in accordance with the applicable provisions of the Rhode Island General Laws, the Borrower Act and the Act and each disbursement shall be noted thereon or otherwise recorded in the records of the Agency. The Revenue Bond shall be issued in accordance with the Trust Indenture between the Narragansett Bay Commission and U.S. Bank National Association (as successor trustee to Wells Fargo Bank, N.A., as successor trustee to The Bank of New York Trust Company, N.A., as successor trustee to J.P. Morgan Trust Company, National Association), as Trustee (the “Borrower Trustee”), dated as of April 15, 2004, a First Supplemental Indenture thereto, dated April 15, 2004, a Second Supplemental Indenture thereto dated December 30, 2004, a Third Supplemental Indenture thereto dated August 4, 2005, a Fourth Supplemental Indenture dated December 15, 2005, a Fifth Supplemental Indenture dated as of December 21, 2006, a Sixth Supplemental Indenture dated as of February 8, 2007, a Seventh Supplemental Indenture dated as of October 15, 2007, an Eighth Supplemental

Indenture dated as of December 12, 2007, a Ninth Supplemental Indenture dated as of July 1, 2008, a Tenth Supplemental Indenture dated as of November 1, 2008, an Eleventh Supplemental Indenture dated as of October 6, 2009, a Twelfth Supplemental Indenture dated as of February 12, 2010, a Thirteenth Supplemental Indenture dated as of June 24, 2010, a Fourteenth Supplemental Indenture dated as of March 29, 2011, a Fifteenth Supplemental Indenture dated as of June 28, 2012, a Sixteenth Supplemental Indenture dated as of November 28, 2012, a Seventeenth Supplemental Indenture dated as of March 21, 2012, an Eighteenth Supplemental Indenture dated as of June 6, 2013, a Nineteenth Supplemental Indenture dated as of December 12, 2013, a Twentieth Supplemental Indenture dated as of June 6, 2014, a Twenty-first Supplemental Indenture dated as of \_\_\_\_\_, 2015, and a Twenty-second Supplemental Indenture dated as of \_\_\_\_\_, 2015 (collectively, the “Narragansett Bay Commission Trust Indenture”) which is incorporated herein and attached as Exhibit B hereto. The Revenue Bond shall be substantially in the form of Exhibit C hereto.

1.3. To fund all or a portion of the Loan, and other loans made to the Borrower or other borrowers, the Agency shall issue its Water Pollution Control Revolving Fund Revenue Bonds, Series 2015A (Pooled Loan Issue) (the "Agency Bonds") in one or more series, from time to time, under and pursuant to an Indenture of Trust (the "Indenture of Trust"), dated as of February 15, 1992, between the Agency and U.S. Bank National Association, (successor to State Street Bank and Trust Company successor to Rhode Island Hospital Trust National Bank), as Trustee (the “Trustee”) as supplemented by a First Supplemental Indenture dated as of February 15, 1993, a Second Supplemental Indenture dated as of June 1, 1994, a Third Supplemental Indenture dated as of December 20, 1995, a Fourth Supplemental Indenture dated as of March 1,

1997, a Fifth Supplemental Indenture dated as of January 1, 1999, a Sixth Supplemental Indenture dated as of January 1, 1999, a Seventh Supplemental Indenture dated as of August 1, 1999, an Eighth Supplemental Indenture dated as of October 1, 2000, a Ninth Supplemental Indenture dated as of April 1, 2002, a Tenth Supplemental Indenture dated as of October 1, 2002, an Eleventh Supplemental Indenture dated as of May 1, 2003, a Twelfth Supplemental Indenture dated as of November 1, 2003, a Thirteenth Supplemental Indenture dated as of December 1, 2004, a Fourteenth Supplemental Indenture dated as of December 1, 2004, a Fifteenth Supplemental Indenture dated as of December 15, 2005, a Sixteenth Supplemental Indenture dated as of December 1, 2006, a Seventeenth Supplemental Indenture dated as of December 1, 2007, an Eighteenth Supplemental Indenture dated as of October 1, 2009, a Nineteenth Supplemental Indenture dated as of May 1, 2010, a Twentieth Supplemental Indenture dated as of June 1, 2010, a Twenty-first Supplemental Indenture dated as of March 1, 2011, a Twenty-second Supplemental Indenture dated as of June 1, 2012, a Twenty-third Supplemental Indenture dated as of June 1, 2013, a Twenty-fourth Supplemental Indenture dated as of March 1, 2014, and a Twenty-fifth Supplemental Indenture dated as of June \_\_, 2015 (the Indenture of Trust as supplemented is hereinafter referred to as the “Indenture”) and the issuance of the Agency Bonds shall constitute a condition precedent to the obligations of the Agency under this Agreement. The Revenue Bond and this Agreement will be pledged and assigned to the Trustee as security for the Agency Bonds. If for any reason the Agency Bonds are not issued on or before June \_\_, 2015, the Borrower may by written notice delivered to the Agency cancel its obligation to borrow funds, accept the Loan or issue the Revenue Bond hereunder, except to the extent that it may have already done so.

1.4. A portion of the proceeds of the Agency Bonds and other funds of the Agency equal to the principal amount of the Loan, less, in each case, a loan closing fee (the "Loan Closing Fee") equal to (i) the Borrower's cost of issuance with respect to the issuance of the Revenue Bond plus (ii) one percent of the Loan, will be deposited in an account or accounts for the benefit of the Borrower in the Construction Proceeds Fund held by the Trustee under the Indenture, with the Green Loan (other than the Principal Forgiveness Subsidy) being deposited in the Borrower's Green Project Reserve Projects Subaccount of the Federal Direct Loan Account of the Construction Proceeds Fund and the Principal Forgiveness Subsidy being deposited in the Borrower's Green Project Reserve Projects Principal Forgiveness Subsidy Subaccount of the Federal Direct Loan Account of the Construction Proceeds Fund (which Fund and accounts may be referred to in certain other documents collectively as the "Construction Proceeds Investment Fund"). Such deposit or deposits, together with the Loan Closing Fee, shall constitute the Loan. The Agency, in its sole discretion, shall determine which funds available to the Agency shall be allocated to the Loan.

## ARTICLE II THE REVENUE BOND

2.1. Payment of principal and interest shall be made by the Borrower as stated in Exhibit G attached hereto. The Subsidized Interest Rate is calculated based on a 33 1/3% interest subsidy from the Borrower's Market Rate. The Borrower will be obligated by the Revenue Bond to pay the Market Rate stated thereon but will be billed only for the Subsidized Interest Rate, except in special circumstances as set forth below in Article III. The Borrower shall also pay to the Agency a loan servicing fee (the "Loan Servicing Fee") in the amount of one-half of one percent of the aggregate amounts disbursed prior to such date less aggregate

prior principal payments by the Borrower (the “Outstanding Disbursements”) as stated in Exhibit F, but excluding any amounts disbursed as the Principal Forgiveness Subsidy. The Agency's Loan Servicing Fee may be adjusted from time to time subject to the Agency Indenture, but no such adjustment shall have any effect on either the Subsidized Interest Rate or the Market Rate on the Revenue Bond.

2.2. Interest will be charged only on the amount of the Loan proceeds which has been disbursed or deemed disbursed to the Borrower, less the Principal Forgiveness Subsidy, and is to be calculated on the basis of a 360-day year of twelve thirty-day months. That portion of the Loan which is applicable to the Loan Closing Fee shall be deemed to be disbursed to the Borrower as of the delivery of the Agency Bonds; the balance of the Loan will be deemed disbursed to the Borrower when the Trustee shall have transferred money for the Borrower's account out of the Construction Proceeds Fund to the Agency in response to a Borrower's requisition made in accordance with Article VI hereof. The Agency shall furnish to the Borrower a monthly statement of Loan activity showing all amounts which have been disbursed or deemed disbursed pursuant to the terms of this Agreement. Notwithstanding the foregoing, in the event that the Borrower fails, for any reason whatsoever, to draw funds from the Construction Proceeds Fund to pay costs of its Project in accordance with the construction draw schedule provided by the Borrower to the Agency at the time of the making of the Loan, the Borrower shall pay to the Agency, as billed, all amounts reasonably incurred by the Agency on account of such failure to draw such funds in accordance with its established construction draw schedule, provided, however, in no event shall the amount billed exceed the amount the Borrower would have paid in interest at the Subsidized Interest Rate as defined in Section 2.1 herein on the Loan had the

Borrower drawn the funds in accordance with its established construction draw schedule; and further provided that the Borrower will not be billed in the event that the Borrower draws funds more quickly than set forth in the construction draw schedule.

2.3 In the event that the Borrower fails to draw all or any portion of the Green Loan within three (3) years from the date of this Agreement, then the Borrower may be required to: (i) immediately forfeit such undrawn portion of the Green Loan; and (ii) immediately forfeit and repay all or a portion of the Principal Forgiveness Subsidy, as determined by the Agency in its reasonable discretion. The Agency shall recalculate the Borrower's Debt Service Schedule, attached hereto as Exhibit F, to reflect such repayment among the remaining principal payments due on the Loan.

2.4. Annual payments by the Borrower of the principal of the Loan will be made in accordance with the terms of the Revenue Bond. Principal payments will begin within one year after the estimated date of completion of construction of the Project as identified in the Project description in Exhibit A or in the case of a project completed prior to the issuance of the Revenue Bond, within one year after the Revenue Bond is issued. Principal payments will be made annually on September 1 and the schedule of payments will be as shown in the form of the Revenue Bond. The initial scheduled completion date for the Project is stated in Exhibit A. In no event shall such annual payments commence later than five (5) years from the time that a disbursement to the Borrower is first made.

2.5. Interest shall be paid by the Borrower semi-annually each March 1 and September 1 commencing not later than nine months after the date of the Revenue Bond. To the extent that the Revenue Bond is in the form of bond anticipation notes, interest shall be paid at the maturity

of each bond anticipation note and may be paid from Loan proceeds as represented by the principal amount of the Revenue Bond (which may be in the form of one or more additional bond anticipation notes) issued to refund or renew such bond anticipation notes.

2.6. The annual installments of principal and interest on the Loan shall be arranged so that the last payment of principal and interest is no later than twenty (20) years from the scheduled completion date of the Project as estimated at the time the Loan is made. If any portion of the Project which is separately identified on Exhibit A is not commenced or if, having been commenced, is abandoned or completed without the full amount of the Loan applicable thereto having been disbursed, as of the scheduled completion date set forth in Exhibit A hereto, the balance of the undisbursed proceeds applicable to such portion shall be deemed disbursed as of such date and the Borrower shall be responsible for the payment of interest thereon, other than with respect to the Principal Forgiveness Subsidy. Notwithstanding that such balance is deemed disbursed, it shall be retained by the Trustee and held under the Indenture in a separate account for the benefit of the Borrower and the balance and all earnings thereon shall be applied in accordance with the terms of the Indenture. The Borrower shall be responsible for any shortfall in the earnings on the investment of such funds as compared to the interest due on the respective Agency Bonds and the Borrower shall receive credit against principal or interest requirements on the Revenue Bond for payments of principal or interest on the Agency Bonds from the principal of or interest earnings on, respectively, such invested funds. If, in accordance with the terms of the Indenture, such undisbursed balance is available to make loans to other borrowers, such balance shall not be deemed to be disbursed, but the obligation of the Agency to make disbursements in that amount and the obligation of the Borrower to repay the Loan in that

amount shall lapse and be without effect. In the case of such a lapse, the Agency shall re-compute the initial and adjusted annual debt service installments of each Loan to reflect the amount of proceeds actually disbursed to the Borrower, if less than the full principal amount of the Loan, and to make the appropriate notations on the Revenue Bond or otherwise in the records of the Agency, provided that failure to make such a notation or any error made in such a notation with respect to any Loan shall not limit the Borrower's payment obligations under this Agreement and the Revenue Bond. Such re-computation shall be as a pro-rata reduction of the debt service on the Revenue Bond. The Agency shall use its best efforts, consistent with the requirements of the Act, to identify other borrowers and to use the aforesaid undisbursed balance for the purpose of making other loans to such other borrowers.

2.7. A Loan may be prepaid by the Borrower at any time with the consent of the Agency but in giving such consent the Agency may require a prepayment penalty based on the cost of reinvesting the prepayment, the cost of prepaying outstanding bonds of the Agency or any other negative financial impact reasonably determined by the Agency.

2.8. The Revenue Bond, when delivered to the Agency shall be in fully marketable form accompanied by documentation in form and substance satisfactory to the Agency including an opinion of nationally recognized bond counsel acceptable to the Agency as to the valid authorization, execution, delivery and enforceability of the Revenue Bond and this Agreement. Said opinion shall include an opinion that interest on the Revenue Bond is not included in gross income for federal income taxation purposes and interest on the Revenue Bond is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes, although such interest is included in adjusted current earnings when calculating corporate

alternative minimum taxable income. The Agency and the Borrower agree to comply with Rule 15c-2-12 of the Securities and Exchange Commission and any other applicable securities laws, if applicable.

### ARTICLE III

#### LOCAL INTEREST SUBSIDY TRUST

3.1. The Agency has caused there to be created under the Indenture a fund known as the Local Interest Subsidy Trust Fund (the "LIST"), which is pledged as security for the Agency Bonds and which the Agency will use to pay the difference between the interest rate on Agency Bonds and the Subsidized Interest Rate for the Borrower and other borrowers. Pursuant to the Indenture, certain amounts in the LIST are allocated to the Borrower and other borrowers, although such allocation does not make such amount a part of the Loan or of the loans to other borrowers. If the Borrower or other borrowers should default in the timely payment of debt service on the Loan or on the loans made to such other borrowers, the LIST may be wholly or partially depleted and, in addition, the LIST may not generate sufficient income to pay the difference between the stated interest rate and the Subsidized Interest Rate. In the event of a default in payment by the Borrower or any other borrowers, the Agency may restore the LIST and cover its debt service obligations on the Agency Bonds by requiring the defaulting Borrower and/or other borrowers to pay up to the full stated interest rate on the Revenue Bonds or bonds or notes representing the Loan or loans on which default has occurred until all accounts in the LIST are restored. The Indenture requires that certain LIST accounts not allocated to any borrower be exhausted first and that the LIST account allocated to the defaulting borrowers be exhausted second and that the accounts of the other borrowers then be charged on a pro-rata basis. If the

payment default by any other borrowers continues beyond the point that the LIST account of the defaulting borrowers is exhausted (or will be exhausted as of the next payment of debt service on the Agency Bonds), the Borrower and other borrowers, each of whom is not in default, may be required to pay up to the full stated interest rate on the Revenue Bond or, in the case of other borrowers, on the notes representing loans to them. Such charge shall never affect the amount of Loan proceeds which may be disbursed pursuant to Article VII, nor shall it affect the amount of principal which must be repaid on the Revenue Bond. The only effect shall be a requirement that the Borrower pay interest in excess of the Subsidized Interest Rate, but not in excess of the full interest rate stated on the Revenue Bond. Such requirement shall be prospective only and shall apply to payments of interest due after the Agency has given written notice to the Borrower of the circumstances which have caused such requirement to occur.

3.2. At such time as the default in payment referred to in paragraph 3.1. is cured or, through payment of the full stated interest rate the LIST is restored, the Agency shall again bill the Borrower only at the Subsidized Interest Rate. The Agency shall not be required to reimburse or credit the Borrower for any increase paid pursuant to this Article.

The obligation of the Borrower to pay the full stated interest rate upon the occurrence of the events stated in this Article does not constitute, and shall not be deemed to constitute for any purpose, a guarantee by the Borrower of the debt of any other person, or indemnification of the Agency or a penalty of any kind or nature. Such obligation constitutes solely a matching of funds available to the Agency for interest rate subsidies to the interest rate requirement on the Agency Bonds.

## ARTICLE IV

### PLEDGE AND DEFAULT

4.1. In accordance with the Narragansett Bay Commission Trust Indenture, incorporated herein as Exhibit B, the Revenue Bonds shall be general obligations of the Borrower and the full faith and credit of the Borrower are pledged for the payment of the Principal Amount and Redemption Price and interest in the Revenue Bonds, subject to the provisions of the Narragansett Bay Commission Trust Indenture.

4.2 At any time, any Agency funds payable to the Borrower may be set off against and applied in payment of any obligations that are due hereunder. In the event of a default in the prompt and full payment when due of any installment of principal of or interest on a Revenue Bond issued under this Agreement, any Agency funds payable to the Borrower for the Project may be held and treated as collateral security for the payment of the obligations hereunder. Any such funds applied or held shall be treated as additional principal advances under the Loan. In the event of set off, the Agency shall notify the Borrower of said set off and said funds will be applied to the annual payment due.

4.3 No delay or omission on the part of the Agency in exercising any right under the Revenue Bond or hereunder shall operate as a waiver of such right or of any other right under the Revenue Bond or hereunder. A waiver on any one occasion shall not be construed as a bar to or waiver of any right or remedy on any future occasion.

4.4 The Borrower will pay all reasonable costs of collection, legal expenses, and attorney's fees incurred or paid by the Agency in collecting or enforcing the Revenue Bond, this

Agreement or any Loan made hereunder on default, except to the extent that a court of competent jurisdiction has determined that such costs, expenses and fees were not reasonably incurred.

4.5 If any payment due from the Borrower to the Agency shall not be paid in full when and as due, and provided that the Agency shall have given the Borrower written notice of or a bill for such payment not earlier than 45 days and not later than 30 days before the same is due, additional interest charges shall be made as a late payment fee which will be charged to the Borrower and due to the Agency. The late payment fee shall be five percent of the amount of the payment or portion thereof, which is late and will be charged every fifteen days, until the payment in question is received, or such lesser amount as shall be the maximum additional interest permitted by state law. The late payment fee shall not constitute a penalty or liquidated damages but shall constitute interest due on the Revenue Bond and is intended to compensate the Agency for the costs and expenses incurred by it on account of each late payment, including but not limited to interest costs and accounting expenses.

4.6 This Agreement shall constitute a loan agreement within the meaning of Section 46-25-59(b) of the Borrower Act. All money received pursuant to the issuance of the Revenue Bond and as revenues, receipts and income shall be trust funds within the meaning of Section 46-25-61 of the Borrower Act.

## ARTICLE V

### REPRESENTATIONS AND WARRANTIES

5.1. The Borrower, in consideration for the making of the Loan by the Agency, represents and warrants as follows:

(i) it is a public corporation and is a "local government unit" of the state of Rhode Island as defined in the Act;

(ii) it is authorized to enter into this Agreement, to obtain the Loan and to issue the Revenue Bond and to undertake the Project;

(iii) at the time of or prior to the first disbursement hereunder, the Revenue Bond has been approved by the division of public utilities, as required by Section 46-25-58(m) of the Borrower Act;

(iv) the public utilities commission has approved sewer user fees, charges, rates or assessments which will be sufficient to meet the rate covenant contained in the Borrower Trust Indenture, as projected by the Borrower for the next five fiscal years;

(v) the project or projects identified in Exhibit A as the Green Project Reserve Projects have been qualified as such by the DEM;

(vi) the Loan, the Revenue Bond, Agreement, and the Narragansett Bay Commission Trust Indenture have each been duly authorized by the Borrower and, when delivered at or prior to the time the Loan is made, will constitute valid and binding obligations, enforceable in accordance with their terms;

(vii) there is no fact that the Borrower has not disclosed to the Agency that materially adversely affects the properties, activities, financial condition or economic outlook of the Borrower or its ability to undertake the Project or repay the Loan;

(viii) there is no litigation or other proceedings, pending or threatened, against or affecting the Borrower, in any court or before any government agency that, if decided adversely to the Borrower, would materially adversely affect the properties, activities,

financial condition or economic outlook of the Borrower or its ability to undertake the Project or repay the Loan;

(ix) the Borrower, having made reasonable investigation, represents that it has not taken any action (or failed to take any action) that would: (1) cause the interest payable on the Revenue Bond to be includable in gross income for Federal income tax purposes under the Internal Revenue Code of 1986 (the "Code"); or (2) cause the Revenue Bond to be a "private activity bond," as defined in Section 141 of the Code.

5.2. The Borrower shall confirm, as of the date of each construction disbursement made hereunder, the representations and warranties contained in Section 5.1 and in addition at the time of each construction disbursement shall represent and warrant as follows:

(i) it is in compliance in all material respects with all laws, ordinances, rules and regulations affecting or relating to the Project;

(ii) it has used all previously disbursed Loan proceeds and will use all Loan proceeds to be disbursed to pay a portion of the costs of the Project or to reimburse itself for costs of the Project which it has paid and which have not been the subject of any prior disbursement;

(iii) it is not in material default hereunder, or under the Revenue Bond;

(iv) the extent, if any, to which all representations and covenants made in any certificate furnished in connection with the delivery of the Revenue Bond, including certificates relating to disclosure of material information in connection with the sale of Agency Bonds and to the tax-exempt nature of interest on the Revenue Bond, are no longer true and correct.

ARTICLE VI  
DISBURSEMENT

6.1. After the Loan is made pursuant to Section 1.4 of this Agreement, construction progress payments and reimbursements will be made to the Borrower or on its order from the Construction Proceeds Fund held under the Indenture, including (i) from the Borrower's Green Project Reserve Projects Subaccount of the Federal Direct Loan Account of the Construction Proceeds Fund in respect to the Green Loan (other than the Principal Forgiveness Subsidy); and (ii) from the Green Project Reserve Projects Principal Forgiveness Subsidy Subaccount of the Federal Direct Loan Account of the Construction Proceeds Fund in respect to the Principal Forgiveness Subsidy. Payments and reimbursements will be made only on account of those portions of the Project, as identified in Exhibit A, for which the Borrower has received and filed with the Agency a Certificate of Approval from DEM; provided, however that, with respect to the project or projects identified in Exhibit A as the Green Project Reserve Projects, the Borrower shall also have received and filed with the Agency evidence satisfactory to the Agency that such project or projects have been qualified as Green Project Reserve Projects by the DEM.

6.2. No more frequently than bi-weekly, Borrower may submit to the Agency a requisition, in the form set forth in Exhibit J, for payment from the Construction Proceeds Fund held under the Indenture, including (i) from the Borrower's Green Project Reserve Projects Subaccount of the Federal Direct Loan Account of the Construction Proceeds Fund in respect to the Green Loan (other than the Principal Forgiveness Subsidy); and (ii) from the Borrower's Green Project Reserve Projects Principal Forgiveness Subsidy Subaccount of the Federal Direct Loan Account of the Construction Proceeds Fund in respect to the Principal Forgiveness Subsidy. Such

requisition shall be accompanied by vendor, contractor or supplier invoices, or such other documentation as the Agency shall require, showing that each payee, the purpose and the aggregate amount of payments is within the project definition, all applicable DEM qualifications and approvals and the total amount of the Loan. In the case of a requisition for the reimbursement of project costs paid in the first instance by the Borrower, the requisition shall additionally state that such costs have not been the subject of any prior requisition and are within all applicable guidelines for reimbursement financing.

6.3. Except as provided below, when the Agency has reviewed any requisition and found it to be complete and proper, or has, in its sole discretion, waived any non-compliance, the Agency shall cause the Trustee under the Indenture to transfer the amount of such requisition to the Agency for the Borrower's account therewith. The Agency review of any requisition shall be completed within five (5) business days of its receipt. Upon receipt of such transfer and in any case within five (5) business days thereof, the Agency shall issue its wire, check, or checks to or on the order of the Borrower, in each case, for payment as specified in the requisition. The Agency shall establish procedures and shall use its best efforts to assure that the Trustee establishes procedures which will cause each duly submitted requisition to be paid within thirty days of its receipt by the Agency. If at the time of any requisition any of the following shall be true:

- (i) there shall then be a continuing Event of Default hereunder;
- (ii) the Agency shall have been notified by DEM that disbursement of the Loan should be suspended as a result of conditions found during a DEM review or inspection of the Project, or any components thereof; or
- (iii) if the representations and warranties contained in Section 5.1 and Section 5.2

shall not be true and correct in all material respects as of the date of the requisition; then the Agency shall have sole discretion as to whether to cause the Trustee to make such transfer and to issue any such check, as aforesaid. If the Agency has not previously been furnished with a copy of the DEM Certificate of Approval for the portion of the Project to which the requisition relates and for such portion's inclusion in the Agency's loan program, or evidence satisfactory to the Agency that the project or projects identified in Exhibit A as the Green Project Reserve Projects have been qualified and continue to be qualified as such by the DEM, no requisition shall be approved.

6.4. Notwithstanding Section 1.3 hereof, prior to the time that the proceeds of Agency Bonds are available to the Agency to make disbursements to the Borrower, the Agency may, subject to its discretion and the availability of funds, make disbursements to the Borrower as provided in this Article VI, whereupon all of this Agreement shall be in full force and effect with respect to such disbursement as if Agency Bonds had been issued. Section 1.3 shall continue to apply with respect to the undisbursed balance of the Loan and the exercise of discretion by the Agency to make any disbursement prior to the issuance of Agency Bonds shall not operate to require it to make any subsequent disbursement.

## ARTICLE VII

### EVENTS OF DEFAULT

7.1. In the event that: (i) the Borrower shall fail to make any payment of the principal of, the premium, if any, and interest on all or a portion of the Loan when and as the same shall become due and payable, in accordance with the terms hereof; or (ii) an Event of Default shall occur under the terms of the Narragansett Bay Commission Trust Indenture, such failure or such occurrence shall constitute an Event of Default, without notice or demand of any kind whatsoever.

7.2. Failure of the Borrower to observe or comply with any other obligation or covenant under this Agreement shall constitute an Event of Default if the same shall continue for a period of thirty days after written notice thereof given to the Borrower by or on behalf of the Agency.

7.3. Upon the occurrence and continuation of an Event of Default, the Agency may take any and all action, at law or in equity, as it may deem appropriate to enforce this Agreement and the Revenue Bond. In addition and not in limitation of all other rights which it may from time to time have, including, but not limited to, the rights set forth in Section 4.5 of this Agreement, the Agency may, if an Event of Default under Section 7.1 or Section 7.2 of this Agreement has occurred, to the extent permitted by law, declare all or any portion of the Loan, including all or a portion of the Principal Forgiveness Subsidy provided to the Borrower under this Agreement, immediately due and payable, suspend all further construction progress payments and exercise its rights under Article III hereof. In the event that all or any portion of the Principal Forgiveness Subsidy is declared immediately due and payable, the Agency shall recalculate the Borrower's Debt Service Schedule, attached hereto as Exhibit G, to reflect such repayment among the remaining principal payments due on the Loan.

## ARTICLE VIII

### COMPLIANCE AND REPORTS

8.1. The Borrower agrees to comply with all State and Federal requirements with respect to carrying out the Project, including, without limitation, those requirements contained in:

- (i) Title VI of the Federal Clean Water Act;
- (ii) 33 U.S.C. 1372, which requires, inter alia, providing in all contracts with contractors and subcontractors funded directly by or assisted in whole or in part with

the funding provided under a federal capitalization grant shall pay laborers and mechanics wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of the United States Department of Labor (“DOL”) in accordance with subchapter IV of Chapter 31 of Title 40, United States Code, and as further stated in Exhibit I attached hereto;

(iii) To the extent applicable, Section 436 of H.R. 3547 (the Consolidated Appropriations Act, 2014 enacted January 17, 2014) under the heading “Use of American Iron and Steel”;

(iv) Title 40, CFR Part 34, New Restrictions on Lobbying, including the submission of certification and disclosure forms accordingly;

(v) To the extent applicable, the Borrower agrees to be bound by and to comply with, the provisions and requirements of the federal Single Audit Act of 1984 (Pub. L. 98-502) Office of Management and Budget (OMB) Circular No. A-133, and updates or revisions, thereto. See Exhibit E for the amount of federal funds allocated to the Loan;

(vi) other Federal legislation or administrative rules applying to activities supported with Federal funds, including those listed in Exhibit D;

(vii) the Act; and

(viii) those sections of the Governor's Executive Order #85.4 relating to Minority Business Enterprises and Women's Business Enterprises.

The Borrower shall, for as long as is required by applicable law, submit to the Agency, on a timely basis, such reports and other information as the Agency may reasonably require to show that

the Borrower is in compliance with all such requirements.

8.2. The Borrower will provide the following information to the Agency during the life of the Loan:

(i) a copy of its annual audited financial statements in accordance with Generally Accepted Government Accounting Standards, annually within 180 days of end of fiscal year;

(ii) unless included as a part of the annual budget or audited financial statement and furnished pursuant to item (iii), an analysis of operating revenues and expenses, including without limitation, a description of the status of all revenues securing the Revenue Bond and of any operating expenses in excess of budget, annually within 180 days of the end of fiscal year;

(iii) a copy of the annual budget of the Borrower, within fifteen days of its adoption;

(iv) unless included as a part of the annual budget or audited financial statements and furnished pursuant to item (iii), a schedule of current and projected short-term and long-term debt service, annually with the aforesaid budget;

(v) unless included as a part of the annual budget or audited financial statements and furnished pursuant to item (iii), a schedule of capital replacement reserves, annually with the aforesaid budget;

(vi) copies of reports submitted to DEM, the federal Environmental Protection Agency ("EPA") and any other regulatory agency relating to any project financed by the Agency or the operation thereof, simultaneously with such submission;

(vii) during the construction period, an accounting of the monthly disbursements relating to the project, monthly within fifteen days;

(viii) on September 1 of each year, a certification to demonstrate compliance with Section 5.1(ix) hereof, in the form set forth as Exhibit H or such other form as reasonably determined by the Agency; and

(ix) such other information or reports as and when the Agency may reasonably require.

8.3 (i) At the time the Loan is made, and at the times provided for in Section 8.2(viii) hereof, the Borrower will be required to make representations and certifications regarding its actions which may affect the exclusion from gross income of interest on the Revenue Bond for Federal income tax purposes. In addition, the Borrower may be required to rebate certain investment profits to the federal government. The Borrower shall review these issues with its bond counsel.

(ii) The interest on the Borrower Bond is intended to be excludable from gross income under Section 103 of the Code. The Borrower will not take any action (or fail to take any action) that would: (1) cause the interest payable on the Borrower Bond to be includable in gross income for Federal income tax purposes under the Code; or (2) cause the Borrower Bond to be a "private activity bond," as defined in Section 141 of the Code.

8.4 To the extent permitted by law, so long as the Borrower shall constitute an obligated person with respect to the Agency Bonds within the meaning of S.E.C. Rule 15c2-12 (the "Rule") as in effect from time to time, the Borrower agrees to furnish to the Agency (1) such financial information and operating data with respect to the Borrower at such times and in such forms as the Agency shall reasonably request in order to comply with the provisions of the Rule, (2) when and if available, the

Borrower agrees promptly to provide the Agency with its audited financial statements for each fiscal year, and (3) the Borrower agrees to provide or cause to be provided to the Agency, within ten (10) business days after the occurrence thereof, notice of the occurrence of any of the following events with respect to the Borrower Bonds:

- (a) principal and interest payment delinquencies;
- (b) non-payment related defaults, if material;
- (c) unscheduled draws on debt service reserves reflecting financial difficulties;
- (d) unscheduled draws on credit enhancements reflecting financial difficulties;
- (e) substitution of credit or liquidity providers, or their failure to perform;
- (f) adverse tax opinions or the issuance by the IRS of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TE3) or other material notices or determinations with respect to the tax status of the Borrower Bonds or other material events affecting the tax-exempt status of the Borrower Bonds;
- (g) modifications to rights of holders of the Borrower Bonds, if material;
- (h) Borrower Bond calls, if material;
- (i) Borrower Bond defeasances;
- (j) release, substitution, or sale of property securing repayment of the Borrower Bonds, if material;
- (k) rating changes;
- (l) tender offers;
- (m) bankruptcy, insolvency, receivership or similar event of the Borrower\*;
  
- (n) the consummation of a merger, consolidation, or acquisition involving the Borrower or the sale of all or substantially all of the assets of the Borrower, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions other than pursuant to its terms, if material; and
- (o) appointment of a successor or additional trustee or the change of name of a trustee, if material.

\* As noted in the Rule, this event is considered to occur when any of the following occur: (i) the appointment of a receiver, fiscal agent or similar officer for the Borrower in a proceeding under the U. S. Bankruptcy Code or in any proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Borrower, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority or (ii) the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Borrower.

The Borrower agrees that from time to time it will also provide notice to the Agency of the occurrence of other events, in addition to those listed above, if such other event is material with respect to the Borrower Bonds.

## ARTICLE IX

### MISCELLANEOUS

9.1. The Borrower shall, subject to local zoning ordinances, erect or cause there to be erected at the Project site, or at each principal component thereof if more than one physical site is involved, and shall maintain during the construction of the Project, a sign approved by the Agency, as more completely described in Exhibit F having minimum dimensions of four feet by eight feet, identifying the State Revolving Loan Fund as a principal source of funding for the Project.

9.2 This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Agency.

9.3 This Agreement shall be construed in accordance with the laws of the State of Rhode Island, and is binding upon and inures to the benefit of the parties and their respective successors.

9.4 To the extent that a court of competent jurisdiction would enforce such agreement as not contrary to law or public policy, the Borrower shall indemnify the Agency against and hold the Agency harmless from any and all claims arising from or in connection with this Agreement, the Loan and the project financed thereby, except for such claims as may arise from the gross negligence or willful misconduct of the Agency or its officers and except for claims arising from the issuance and marketing of the Agency Bonds unless, and only to the extent, any such claim is based on information furnished by the Borrower for use in connection therewith.

9.5 Except that this Agreement, the Loan and any Revenue Bonds may be assigned by the Agency for the benefit and security of the holders of bonds of the Agency, the parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

9.6 This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto. This Agreement shall constitute the loan agreement referred to in the Borrower's resolution adopted on \_\_\_\_\_, 2015.

RHODE ISLAND CLEAN WATER  
FINANCE AGENCY

By: \_\_\_\_\_  
Executive Director

NARRAGANSETT BAY COMMISSION

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

By: \_\_\_\_\_  
Executive Director

EXHIBIT A

DESCRIPTION OF THE PROJECT

I. NARRATIVE STATEMENT DESCRIBING THE PROJECT(S):

II. GREEN PROJECT RESERVE PROJECTS:

III. COSTS TO BE PAID FROM LOAN FOR EACH SEPARATELY IDENTIFIED PORTION OF THE PROJECT:

1.	Reimbursement:	\$0
2.	Construction Costs:	\$0
3.	Costs of Issuance:	\$0
4.	Capitalized Interest:	\$0
5.	Loan Origination Fee:	\$0

IV. ESTIMATED COMPLETION DATE FOR THE PROJECT:

EXHIBIT B

NARRAGANSETT BAY COMMISSION TRUST INDENTURE

EXHIBIT C

THE REVENUE BOND FORM

## EXHIBIT D

### FEDERAL LAWS AND ADMINISTRATIVE REQUIREMENTS

#### I. Statutes

Age Discrimination Act, Public Law 94-135  
Archeological and Historical Preservation Act of 1974, Public Law 93-291  
Civil Rights Act of 1964, Public Law 88-352, as amended  
Clean Air Act, 42 U.S.C. Sections 306 and 7506(c)  
Clean Water Act, 33 U.S.C. 1250, et seq.  
Costal Barrier Resources Act, 16 U.S.C. 3501, et seq.  
Coastal Zone Management Act of 1972, Public Law 92-583, as amended  
Demonstration Cities and Metropolitan Development Act of 1966, Public Law 89-754, as amended  
Endangered Species Act, 16 U.S.C. 1531, et seq.  
Farmland Protection Policy Act, 7 U.S.C. 4201, et seq.  
Federal Water Pollution Control Act, Public Law 92-500, as amended  
Fish and Wildlife Coordination Act, Public Law 85-624, as amended  
National Historic Preservation Act of 1986, Public Law 89-665, as amended  
Rehabilitation Act of 1973, Public Law 93-112, as amended  
Safe Drinking Water Act, Public Law 92-523, as amended  
Uniform Relocation and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended  
Wild and Scenic Rivers Act, Public Law 90-542, as amended

#### II. Executive Orders

E.O. #11246 (Equal Employment Opportunity)  
E.O. #11250 (Rehabilitation)  
E.O. #11593 (Protection and Enhancement of the Cultural Environment)  
E.O. #11625 (Women's and Minority Business Enterprise)  
E.O. #11738 (Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants or Loans)  
E.O. #11914 (Rehabilitation)  
E.O. #11988 (Floodplain Management)  
E.O. #11990 (Protection of Wetlands)  
E.O. #12138 (Women's and Minority Business Enterprise)  
E.O. #12549 (Debarment and Suspension)

EXHIBIT E  
SOURCE OF LOAN

- |    |                          |                 |
|----|--------------------------|-----------------|
| 1. | Amount of Direct Loan:   | \$3,997,200.00  |
| 2. | Amount of Bonded Loan:   | \$21,002,800.00 |
| 3. | Amount of Federal Funds: | \$800,000.00    |

SECURITY

The following shall constitute security for the prompt performance of the Borrower's obligation under the Agreement, the Revenue Bonds and an account of the Loans:

Revenue Pledge

EXHIBIT F  
SPECIFICATION FOR SIGNS

EXHIBIT G

BORROWER DEBT SERVICE AND FEE SCHEDULE

EXHIBIT H

FORM OF POST-ISSUANCE COMPLIANCE CERTIFICATE

The undersigned is an authorized official of \_\_\_\_\_ (the "Borrower") under a loan agreement dated as of \_\_\_\_\_ (the "Loan Agreement") between the Borrower and the Rhode Island Clean Water Finance Agency (the "Agency") executed in connection with the issuance by the Agency of its Water Pollution Control Revolving Fund Revenue Bonds, Series \_\_\_\_\_ (Pooled Loan Issue) (the "Bonds"). The loan under the Loan Agreement is represented by a bond of the Borrower (the "Revenue/Borrower Bond"). The Loan Agreement was funded all or in part with proceeds of the Bonds.

In connection with the execution with the Loan Agreement, the Borrower made certain representations and covenants designed to ensure that the interest on the Revenue Bond and, in turn, the Bonds remain excludable from gross income for Federal income tax purposes. These representations and covenants relate to the requirements under Section 103 of the Internal Revenue Code of 1986 (the "Code"), including the limitations in Section 141 of the Code relating to "private activity bonds" and the limitations in Section 148 of the Code relating to "arbitrage bonds" (collectively, the "Federal Tax Requirements"). The Borrower understands that the Federal Tax Requirements must be complied with during the entire term of the Loan Agreement and the Revenue/Borrower Bond.

In order for the Agency to determine whether it is in compliance with the provisions of the Code that apply for interest on the Bonds to remain excludable from gross income for Federal tax purposes, the Agency is requesting that the Borrower confirm that it is in compliance with the Federal Tax Requirements with respect to the Loan Agreement and the Revenue/Borrower Bond

Accordingly, the Borrower hereby represents that it is in compliance with the Federal Tax Requirements with respect to the Loan Agreement and the Revenue/Borrower Bond.

IN WITNESS WHEREOF, the undersigned has caused this certificate to be executed and delivered in the name of the Borrower as of the date listed below.

Dated:

[BORROWER]

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

Name:

Title:

EXHIBIT I

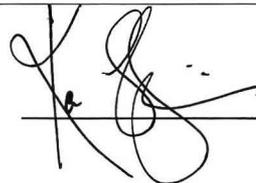
WAGE RATE REQUIREMENTS UNDER FY12 APPROPRIATIONS

EXHIBIT J  
FORM OF REQUISITION

**CERTIFICATION**

I hereby certify that on June 29, 2015, I sent a copy of the within to all parties set forth on the attached Service List by electronic mail and copies to Luly Massaro, Commission Clerk, by electronic mail and regular mail.

<b>Parties/Address</b>	<b>E-mail Distribution</b>	<b>Phone</b>
Joseph A. Keough, Jr., Esq. Keough & Sweeney 41 Mendon Ave. Pawtucket, RI 02861	<a href="mailto:jkeoughjr@keoughsweeney.com">jkeoughjr@keoughsweeney.com</a> ;	401-724-3600
Karen L. Giebink, Director of A&F Narragansett Bay Commission One Service Road Providence, RI 02905	<a href="mailto:Kgiebink@narrabay.com">Kgiebink@narrabay.com</a> ;	401-461-8848
	<a href="mailto:Sherri.arnold@narrabay.com">Sherri.arnold@narrabay.com</a> ;	
	<a href="mailto:Mstuard@narrabay.com">Mstuard@narrabay.com</a> ;	
Christy Hetherington, Esq. Dept. of Attorney General 150 South Main St. Providence, RI 02903	<a href="mailto:Chetherington@riag.ri.gov">Chetherington@riag.ri.gov</a> ;	401-222-2424
	<a href="mailto:Steve.scialabba@dpuc.ri.gov">Steve.scialabba@dpuc.ri.gov</a> ;	
	<a href="mailto:dmacrae@riag.ri.gov">dmacrae@riag.ri.gov</a> ;	
	<a href="mailto:jmunoz@riag.ri.gov">jmunoz@riag.ri.gov</a> ;	
	<a href="mailto:pat.smith@dpuc.ri.gov">pat.smith@dpuc.ri.gov</a> ;	
	<a href="mailto:al.mancini@dpuc.ri.gov">al.mancini@dpuc.ri.gov</a> ;	
Luly E. Massaro, Commission Clerk Public Utilities Commission 89 Jefferson Blvd. Warwick, RI 02888	<a href="mailto:Luly.massaro@puc.ri.gov">Luly.massaro@puc.ri.gov</a> ;	401-780-2107
	<a href="mailto:John.spirito@dpuc.ri.gov">John.spirito@dpuc.ri.gov</a> ;	
	<a href="mailto:thomas.kogut@dpuc.ri.gov">thomas.kogut@dpuc.ri.gov</a> ;	

  
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