

**MEETING OF THE MASSACHUSETTS
CLEAN WATER TRUST
BOARD OF TRUSTEES**

June 7, 2023
1:30 PM

Location: Remote*

NOTICE & AGENDA

CALL TO ORDER

Item #1 **MOTION- VOTE REQUESTED**

Acceptance and approval of minutes of the meeting held on May 3, 2023.

Item #2 **REPORT OF THE EXECUTIVE COMMITTEE**

Item #3 **MOTION- VOTE REQUESTED**

Approval of the Fiscal Year 2024 Budget

1. That the Board of Trustees approves the Trust's fiscal year 2024 budget request, distributed to the Board, for funds from the Administrative Fund for the costs of administering its programs paid through the MCWT's Expendable Trust and the Department of Environmental Protection's Expendable Trust.
2. That the Board of Trustees approves the Trust's fiscal year 2024 budget request of the Department of Environmental Protection, distributed to the Board, for funds from the Clean Water and Drinking Water administrative grant funds and set-aside funds for the administration of the state revolving fund.

MOTION- VOTE REQUESTED

Approval of revised Standard Financing Agreement and Standard Terms & Conditions

1. That the revised standard form of multipurpose Financing Agreement (“Financing Agreement”) and the standard Terms and Conditions (the “Terms & Conditions”) to the Financing Agreement for financing eligible costs of Water Pollution Abatement Projects and Drinking Water Projects under the Trust’s Clean Water Program and Drinking Water Program for making direct loans, leveraged loans, interim loans, or as necessary replacement loans (collectively, “Financings”), are hereby approved in substantially the forms presented at or prior to this meeting, with such additions, deletions and other changes thereto, not inconsistent with the Master Trust Agreement dated as of January 1, 2015 between the Trust and U.S. Bank Trust Company, National Association, as Master Trustee (as amended, the “Master Trust Agreement”) as the Authorized Officers executing and delivering such Financing Agreement incorporating such Terms & Conditions may approve, such execution and delivery to be conclusive evidence of approval and ratification of all such changes (with all capitalized terms used and not otherwise defined in this vote having the meanings given such terms in the Master Trust Agreement).
2. That the Financing Agreement and the Terms & Conditions approved in Paragraph 1 are further approved for use in making Financings heretofore approved by the Trust and in place of the standard financing agreement and standard terms and conditions to Financing Agreement approved at the time of the original vote of the Trust approving the terms of such financings (the “Original Votes”), in each case to the extent not inconsistent with the Original Votes.
3. That the Board of Trustees hereby delegates to the Executive Director authority to do all things necessary to incorporate the Financing Agreement and Terms & Conditions into the Trust’s programs for Financings, including making such non-substantive changes and corrections to the Financing Agreement or Terms & Conditions as necessary or convenient for the efficient and effective administration of the Trust’s programs for Financings.

The Board has previously approved a set of Bylaws for the Trust. Pursuant to Article VIII the bylaws may be amended by vote of at least two members of the Board, provided that the notice of the meeting at which the amendments are approved specifies the subject matter of the amendments. The proposed amendments to the Bylaws increase the size of the Executive Committee (to five from three), add an officer (the Deputy Director of Program Development) and make certain other certain clarifying changes including with respect to the procedures for appointing certain officers.

Item #5

MOTION- VOTE REQUESTED

Approval of amendment of Bylaws to increase the size of the Executive Committee, add a Deputy Director of Program Development and make certain other clarifying changes.

That the revised Bylaws of the Trust are hereby approved in the form presented at or prior to this meeting.

Item #6

MOTION- VOTE REQUESTED

Approval of Small Systems Technical Assistance

That the recommendation of the procurement management team, established pursuant to the Trust's request for responses, dated January 19, 2023, distributed to the Board, to prequalify technical service providers to assist small, rural, and tribal publicly owned treatment works, particularly in disadvantaged communities, with participating in the CWSRF loan program, is hereby approved.

That the Board hereby delegates to the Executive Director, and/or other authorized officers of the Trust, all necessary power and authority to take any such further action as necessary to finalize the prequalification of the selected firm.

Item #7

MOTION- VOTE REQUESTED

Use of ARPA Funds to Provide Additional Subsidies in the Form of Principal Forgiveness for 2021 Projects in Nitrogen Sensitive Areas

That the Board approves the use of American Rescue Plan Act ("ARPA") funds to provide additional subsidies in the form of principal forgiveness for certain Clean Water projects of the Borrowers listed in Schedule 1 ("Schedule") based on the eligible costs presented in the Schedule for projects in nitrogen sensitive areas in the listed amounts.

Item #8

MOTION- VOTE REQUESTED

Approve the Use of Admin Funds to Assist LSL Program Grantees with Grant Compliance

1. That the Trust approve the use of a portion of its Administrative Funds to provide technical assistance in accordance with the Enabling Act and the Safe Drinking Water Act (including, without limitation, paying a portion of the costs of third-party financial audit for recipients not otherwise required to have such audits performed) to certain recipients of grants under the Trust's LSL Planning Program in complying with the required grant conditions;
2. That the Trust set aside \$100,000 of Administrative Funds for such purpose, to be expended at the direction and with the approval of the Executive Committee.
3. That the Trust authorizes and directs the Executive Director, and such other officers of the Trust as the Executive Director may delegate, to perform all such additional acts, not inconsistent with this vote, as may be necessary or desirable in effecting the purposes of this vote.

Item #9

MOTION- VOTE REQUESTED

Approval of Lead Service Line Planning Program Commitments

<u>PAC No.</u>	<u>Recipient</u>	<u>Amount</u>
DW-23-15	Adams Fire District	\$50,000
DW-23-53	Cherry Valley and Rochdale Water District	\$110,000
DW-23-44	Chicopee	\$311,500
DW-23-51	Dedham-Westwood Water District	\$907,400
DW-23-46	Everett	\$150,000
DW-23-50	Fairhaven	\$100,000
DW-23-47	Falmouth	\$128,000
DW-23-43	Hadley	\$145,770
DW-23-41	Lunenburg Water District	\$253,000
DW-23-55	Maynard	\$200,000
DW-23-49	Somerset	\$75,000
DW-23-45	Turners Falls Fire District	\$26,400
DW-23-48	Westminster	\$56,800

Item #10

MOTION- VOTE REQUESTED

Approval of Clean Water Commitment

<u>PAC No.</u>	<u>Borrower</u>	<u>Amount</u>	<u>Interest Rate</u>
CW-22-35	Framingham	\$9,919,928 ¹	1.5% ²

Item #11

MOTION- VOTE REQUESTED

Approval of Drinking Water Commitment

<u>PAC No.</u>	<u>Borrower</u>	<u>Amount</u>	<u>Interest Rate</u>
DW-23-52	Norwell	\$1,875,000	0% ³

¹ First Revision. Original PAC amount was \$7,830,000.

² Housing Choice Loan

³ PFAS Remediation Loan

Item #12

MOTION- VOTE REQUESTED

Approval of Lead Service Line Planning Program Grants and Grant Agreements

<u>PRA No.</u>	<u>Recipient</u>	<u>Amount</u>
DWL-23-15	Adams Fire District	\$50,000
DWL-23-53	Cherry Valley and Rochdale Water District	\$110,000
DWL-23-44	Chicopee	\$311,500
DWL-23-51	Dedham-Westwood Water District	\$907,400
DWL-23-46	Everett	\$150,000
DWL-23-50	Fairhaven	\$100,000
DWL-23-47	Falmouth	\$128,000
DWL-23-43	Hadley	\$145,770
DWL-23-41	Lunenburg Water District	\$253,000
DWL-23-55	Maynard	\$200,000
DWL-23-49	Somerset	\$75,000
DWL-23-45	Turners Falls Fire District	\$26,400
DWL-23-48	Westminster	\$56,800

Item #13

MOTION- VOTE REQUESTED

Approval of the Clean Water Loans/Local Government Obligations and Financing Agreements

<u>PRA No.</u>	<u>Borrower</u>	<u>Amount</u>	<u>Interest Rate</u>
CWP-22-34	Brockton	\$2,173,452	1.5% ²
CWP-22-35	Framingham	\$9,919,928	1.5% ²
CW-22-31	Franklin	\$33,000,000	1.5% ²
CW-22-57	Littleton	\$29,438,000	1.5% ²
CWP-22-69	Lynn Water and Sewer Commission	\$25,000,000	1.5% ²
CW-22-73	New Bedford	\$1,521,200	2%
CWP-22-53	Taunton	\$2,137,058	1.5% ²
CWP-22-53-A	Taunton	\$362,000	1.5% ²
CWP-22-54	Taunton	\$4,000,000	1.5% ²

Item #14

MOTION- VOTE REQUESTED

Approval of the Drinking Water Loans/Local Government Obligations and Financing Agreements

<u>PRA No.</u>	<u>Borrower</u>	<u>Amount</u>	<u>Interest Rate</u>
DWP-22-49	East Brookfield	\$7,869,027	2%
DWP-22-38	Leicester Water Supply District	\$5,179,421	2%
DWP-22-20	North Attleborough	\$7,250,061	0% ³
DWP-22-26	Townsend	\$14,900,000	0% ³
DWP-23-18	Yarmouth	\$3,365,339	0% ³

OTHER BUSINESS

(Items not reasonably anticipated by the Chair 48 hours in advance of the meeting)

ADJOURN

***Location: Remote:** Notice is hereby given that the Wednesday, June 7, 2023 meeting of the Massachusetts Clean Water Trust's Board of Trustees will be held through remote participation in accordance with M.G.L.c.30A, §20, as modified by c.20 of the Acts of 2021, c.22 of the Acts of 2022, and c.2 of the Acts of 2023.

Those who would like to attend the meeting, please e-mail masswatertrust@tre.state.ma.us to request meeting information. Information to access the meeting will be available through the duration of the meeting. However, we encourage participants to request the information by 5:00 PM the day before the meeting.

To ensure that the audio is clear to all attendees, unless you are actively participating in the meeting, please mute your audio. If you have technical difficulties joining the meeting, please email masswatertrust@tre.state.ma.us.

Please Note: There will be no physical meeting at the offices of the Massachusetts Clean Water Trust.



Item #1 *Minutes of the Meeting Held on May 3, 2023*

**MEETING OF THE MASSACHUSETTS
CLEAN WATER TRUST
BOARD OF TRUSTEES**

May 3, 2023
1:30 PM

Location: Remote*

Minutes

Attendees: James MacDonald, First Deputy Treasurer, Office of the State Treasurer, Designee
Maria Pinaud, Director of Municipal Services, MassDEP, Designee
Timur Yontar, Capital Budget Director, Executive Office for Administration & Finance, Designee

Also Present: Susan Perez, Executive Director, MCWT
Nate Keenan, Deputy Director, MCWT
My Tran, Treasurer, MCWT
Sally Peacock, Controller, MCWT
Nicole Munchbach, Accountant, MCWT
Pam Booker, Accountant, MCWT
Sunkarie Konteh, Accountant, MCWT
Julian Honey, Program Associate, MCWT
Kailyn Fellmeth, Program Associate, MCWT
Jonathan Maple, Senior Policy Analyst, MCWT
Rachel Stanton, Investor Relations and Communications Graphic Designer, MCWT
Kathryn Armour, Data Analyst, MCWT
Robin McNamara, Deputy Director of Municipal Services, MassDEP
Mary Wilkins, Communications Executive Assistant, Office of the State Treasurer
Greg Devine, Section Chief, MassDEP
Andrew Napolitano, Director of Communications, Office of the State Treasurer
Jennifer Pederson, Executive Director, MWWA

CALL TO ORDER: The meeting was called to order by Mr. MacDonald at 1:30 p.m.

Item #1

MOTION- VOTE

Acceptance and Approval of April 5, 2023 Minutes

The motion was made by Mr. Yontar and seconded by Ms. Pinaud and voted unanimously in favor of acceptance and approval of the minutes of the meeting of the Board held on April 5, 2023.

Item #2

REPORT OF THE EXECUTIVE COMMITTEE

Lead Service Line (LSL) Planning Grants

Ms. Perez stated that including the grants up for vote today, 51 LSL Planning Grants have been issued totaling \$11.5 million. Of these, 36 projects totaling \$9.5 million in grants have been awarded to disadvantaged communities.

American Rescue Plan Act (ARPA) Fund Disbursements

Ms. Perez noted that as of last week, the Trust has disbursed \$55 million of the \$86 million total in ARPA funds.

EPA Grant Applications and LSL Grant Allocations

Ms. Perez stated that the Trust and MassDEP are working on the 2023 EPA grant application, which is expected to be completed in mid-June.

The Trust, MassDEP, and the Healey Administration continue to discuss the best course of outreach to EPA on the new LSL grant allocations. Additional updates will be provided as discussions continue.

Item #3

MOTION- VOTE

The motion was made by Ms. Pinaud and seconded by Mr. Yontar and voted unanimously in favor of acceptance and approval of the following:

Approval of Lead Service Line Planning Program Commitments

<u>PAC No.</u>	<u>Recipient</u>	<u>Amount</u>
DW-22-17	Blackstone	\$50,000
DW-23-36	Chester	\$136,000
DW-23-28	Dalton Fire District	\$196,400
DW-23-27	Dracut Water Supply District	\$230,500
DW-23-37	Erving	\$121,500
DW-23-31	Greenfield	\$200,000
DW-23-30	Harvard	\$111,250
DW-23-29	Lee	\$182,800
DW-23-40	Lincoln	\$43,000
DW-23-39	Littleton	\$174,000
DW-23-33	Raynham Center Water District	\$137,500
DW-23-32	Shirley	\$34,900
DW-23-26	Templeton	\$200,000
DW-23-38	Tyngsborough Water District	\$89,200
DW-23-35	West Springfield	\$150,400
DW-23-34	Wilbraham	\$160,000

Item #4

MOTION- VOTE

The motion was made by Ms. Pinaud and seconded by Mr. Yontar and voted unanimously in favor of acceptance and approval of the following:

Approval of Lead Service Line Planning Program Grants and Grant Agreements

<u>PRA No.</u>	<u>Recipient</u>	<u>Amount</u>
DWL-22-17	Blackstone	\$50,000
DWL-23-36	Chester	\$136,000
DWL-23-28	Dalton Fire District	\$196,400
DWL-23-27	Dracut Water Supply District	\$230,500
DWL-23-37	Erving	\$121,500
DWL-23-31	Greenfield	\$200,000
DWL-23-30	Harvard	\$111,250
DWL-23-29	Lee	\$182,800
DWL-23-40	Lincoln	\$43,000
DWL-23-39	Littleton	\$174,000
DWL-23-33	Raynham Center Water District	\$137,500
DWL-23-32	Shirley	\$34,900
DWL-23-26	Templeton	\$200,000
DWL-23-38	Tyngsborough Water District	\$89,200
DWL-23-35	West Springfield	\$150,400
DWL-23-34	Wilbraham	\$160,000

Item #5

MOTION- VOTE

The motion was made by Mr. Yontar and seconded by Ms. Pinaud and voted unanimously in favor of acceptance and approval of the following:

Approval of the Clean Water Loans/Local Government Obligations and Financing Agreements

<u>PRA No.</u>	<u>Borrower</u>	<u>Amount</u>	<u>Interest Rate</u>
CW-22-56	Boston Water & Sewer Commission	\$20,145,084	1.5% ¹
CWP-22-58	Fitchburg	\$7,511,358	2%
CWP-22-58-A	Fitchburg	\$1,414,590	2%

Item #6

MOTION- VOTE

The motion was made by Ms. Pinaud and seconded by Mr. Yontar and voted unanimously in favor of acceptance and approval of the following:

Approval of the Drinking Water Loans/Local Government Obligations and Financing Agreements

<u>PRA No.</u>	<u>Borrower</u>	<u>Amount</u>	<u>Interest Rate</u>
DW-22-36	Scituate	\$2,368,763	2%
DW-23-01	Water Supply District of Acton	\$1,000,000	0% ²

¹ Housing Choice Loan

² PFAS Remediation Loan

Item #7

MOTION- VOTE

The motion was made by Mr. Yontar and seconded by Ms. Pinaud.

Ms. Perez noted that this is the largest SWIG Grant that has been awarded to date. The Trust and MassDEP are working with local stakeholders to create a public event promoting the award and the SWIG program.

Mr. Honey added that the award will provide funds to replace 70 lead positive bubblers/water fountains in 26 schools serving 11,000 students.

The motion was voted unanimously in favor of acceptance and approval of the following:

School Water Improvement Grant (SWIG) Program and Approval of SWIG Program Grant

That School Water Improvement Grant, numbered, to the grantee and in the amount as follows is hereby approved, subject to the terms of the applicable grant agreement:

<u>Grant No.</u>	<u>Grantee</u>	<u>Grant Amount</u>
SWIG-23-05	Springfield Public Schools	\$210,000

OTHER BUSINESS: None

ADJOURN: The motion was made by Ms. Pinaud and seconded by Mr. Yontar and voted unanimously in favor of adjourning the meeting at 1:37 p.m.

LIST OF DOCUMENTS AND EXHIBITS USED:

1. Minutes, April 5, 2023
2. Project Descriptions

***Location: Remote:** Notice is hereby given that the May 3, 2023 meeting of the Massachusetts Clean Water Trust's Board of Trustees will be held through remote participation in accordance with M.G.L.c.30A, §20, as modified by c.20 of the Acts of 2021, c.22 of the Acts of 2022, and c.2 of the Acts of 2023.

Those who would like to attend the meeting, please e-mail masswatertrust@tre.state.ma.us to request meeting information. Information to access the meeting will be available through the duration of the meeting. However, we encourage participants to request the information by 5:00 PM the day before the meeting.

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Please Note: There will be no physical meeting at the offices of the Massachusetts Clean Water Trust.



Item #2 (*No Reference Document*)



***Item #3 Approval of the Fiscal Year 2024
Budget***

MASSACHUSETTS CLEAN WATER TRUST
Fiscal Year 2024 BUDGET

	FY-24	FY-23
Revenue		
Administrative Fees	\$ 5,570,000	\$ 5,260,000
Federal Grant and State Match Revenue	16,161,245	9,829,752
Total Revenue	<u>21,731,245</u>	<u>15,089,752</u>
Expenses		
Federal Grant and State Match Funded Expenses		
DEP Payroll Related Expenses	11,824,104	8,339,852
DEP Contracts	4,310,641	1,450,000
DEP Travel and Other Expenses	26,500	39,900
Total Federal Grant and State Match Funded Expenses	<u>16,161,245</u>	<u>9,829,752</u>
Administrative Funded Expenses		
DEP Expendable Trust		
DEP Payroll Related Expenses	3,315,529	3,512,373
DEP Contracts	435,425	1,270,000
DEP Travel and Other Expenses	15,000	21,500
Total DEP Expendable Trust	<u>3,765,954</u>	<u>4,803,873</u>
Trust Expenses		
Trust Payroll Related Expenses	1,860,000	1,620,000
Professional Services	394,500	392,500
Rent Expense	350,000	400,000
Computer Equip and Software Expense	179,100	175,000
Comptroller Indirect Charge (AP)	40,000	40,000
Other (supplies, postage, travel, cell phone, prof dues)	591,500	59,500
Total Trust Expenses	<u>3,415,100</u>	<u>2,687,000</u>
Total Administrative Funded Expenses	<u>7,181,054</u>	<u>7,490,873</u>
Total Expenses	<u>23,342,299</u>	<u>17,320,625</u>
Net Deficit	<u>\$ (1,611,054)</u>	<u>\$ (2,230,873)</u>



***Item #4 Approval of revised Standard
Financing Agreement and Standard Terms &
Conditions***

Financing No: _____

Date: _____

Borrower: _____

Initial Obligation Amount: _____

FINANCING AGREEMENT

This Financing Agreement (this “Financing Agreement”) is entered into by and between the Massachusetts Clean Water Trust (together with its successors and assigns, the “Trust”), an instrumentality of The Commonwealth of Massachusetts (the “Commonwealth”) and the borrower listed above, a political subdivision or public instrumentality (together with its successors and assigns, the “Borrower”). The agreement between the Trust and the Borrower is comprised of this Financing Agreement and includes all attached schedules, and the “Terms and Conditions to the Massachusetts Clean Water Trust Financing Agreement” dated as of the date set forth in Schedule A hereto, including all representations, warranties, and covenants set forth therein (the “Terms and Conditions”), which hereby is incorporated by reference. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Enabling Act and in the Terms and Conditions.

RECITALS:

WHEREAS, the Trust is organized and exists under the Enabling Act to assist Local Governmental Units in the Commonwealth to initiate, acquire, construct, improve, maintain and operate Drinking Water Projects and Water Pollution Abatement Projects; and

WHEREAS, pursuant to the Enabling Act, the Trust is authorized to make loans and interim loans to Local Governmental Units in the Commonwealth to finance or refinance costs of a Project or Projects; and

WHEREAS, Local Governmental Units are authorized to contract with the Trust with respect to such financings or refinancings and to issue local governmental obligations (the “Local Governmental Obligations”) to evidence their obligations to repay such loans or interim loans; and

WHEREAS, the Trust has heretofore issued one or more commitments to the Borrower to finance or refinance costs of the Project or Projects described in Schedule A to this Financing Agreement by a loan (a “Loan”), and if requested by the Borrower an Interim Loan (as defined in the Terms and Conditions), in each case from the Trust to the Borrower in an aggregate amount equal to the Initial Obligation Amount set forth in Schedule C attached hereto; and

WHEREAS, to provide for such Loan and any Interim Loan, the Trust and the Borrower have duly authorized the execution and delivery of this Financing Agreement pursuant to the Enabling Act and the Applicable Authority and the Borrower has duly authorized the issuance and delivery to the Trust of its Local Governmental Obligations in an aggregate principal amount equal to the Initial Obligation Amount; and

WHEREAS, in accordance with the Enabling Act the Department has issued a Project Approval Certificate to the Trust approving each Project and the costs thereof to be financed or refinanced by the Trust and, in connection therewith, the Borrower and the Department are executing and delivering, simultaneously with the execution and delivery of this Financing Agreement, one or more Project Regulatory Agreements pertaining to the construction and operation of each Project.

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree as follows.

1. Terms of this Financing Agreement. The terms of the Loan and any Interim Loan represented by this Financing Agreement, including, but not limited to, the effective date of the applicable Terms and Conditions, the description of the Project(s), the Initial Obligation Amount, the interest rate, fees, payment terms, and other essential or important terms and information, are set forth in Schedule A and Schedule C attached hereto.

2. Principal Forgiveness; Additional Conditions. If this Loan qualifies for principal forgiveness, the provisions related thereto appear in Schedule B. Additional conditions to the Loan represented by this Financing Agreement and any related Interim Loan, including any additional security therefor, and any amendments or additions to the Terms and Conditions, are set forth in Schedule D attached hereto.

3. Payment Schedule. The schedule of debt service payments and other fees to be paid by the Borrower pursuant to the Loan represented by this Financing Agreement are set forth in Schedule C attached hereto, which Schedule C may be amended from time to time.

4. Terms and Conditions. The general terms and conditions for the Loan and Interim Loan are set forth in the Terms and Conditions dated as of the date set forth on Schedule A attached hereto. Such Terms and Conditions are available on the Trust's website. The Borrower acknowledges and agrees that it is responsible for reviewing the Terms and Conditions and consulting with its legal counsel, as necessary, and maintaining a copy of the Terms and Conditions in its loan file.

5. Certification of Authorized Officer of the Borrower. The undersigned, an Authorized Officer of the Borrower, hereby acknowledges and certifies that such Authorized Officer has read and reviewed and consulted with the Borrower's legal counsel, as necessary, and agrees to the terms, conditions, representations, covenants, and undertakings set forth in this Financing Agreement, including all schedules attached hereto and the Terms and Conditions.

IN WITNESS WHEREOF, the Trust and the Borrower have caused this Financing Agreement to be executed by their duly Authorized Officers the day and year first above written.

MASSACHUSETTS CLEAN WATER TRUST

By _____
Authorized Officer

BORROWER

By _____
Authorized Officer

SCHEDULE A

- A. Terms and Conditions dated as of:
- B. Project Approval Certificate(s) - Number and Date:
- C. SRF Identification Number:
- D. Applicable Authority:
- E. Authorized Officers:
- a) Of the Trust: The Chair and Vice Chair of the Trust (and each designee thereof pursuant to G.L. Ch.30 §6A) and the Executive Director and Treasurer of the Trust.
 - b) Of the Borrower:
 - c) Of the Department: The Commissioner, the Deputy Commissioner and the Deputy Assistant Commissioner for Financial and Construction Management of the Department.
- F. Interest Rate: __%
- G. Administrative Fee: Seventy-five thousandths of one percent (.075%) of the Loan Principal Obligation outstanding on the January 14 or July 14, as applicable, preceding each Loan Repayment Date, subject to proration for any period greater than or less than six (6) months.
- H. Closing Date:
- I. Interim Loan Interest Rate: 0%

J. The Project(s):

K. System:

L. Addresses for Notices:

To the Trust: Massachusetts Clean Water Trust
 1 Center Plaza
 Suite 430
 Boston, MA 02108
 Attention: Executive Director

To the Borrower:

To the Department: Department of Environmental Protection
 100 Cambridge Street
 Suite 900
 Boston, MA 02114
 Attention: Commissioner

SCHEDULE B

[If any: terms and procedures for principal forgiveness]

SCHEDULE C

[Debt service schedule]

SCHEDULE D

[If any: additional terms, additional security and/or amendments to terms and conditions]

TERMS AND CONDITIONS
TO THE
MASSACHUSETTS CLEAN WATER TRUST
FINANCING AGREEMENT

The following Terms and Conditions are a part of and incorporated into each Financing Agreement (“Financing Agreement”) entered into by and between the Massachusetts Clean Water Trust (together with its successors and assigns, the “Trust”) and each Borrower pursuant to which the Trust provides financial assistance.

Section 1. Definitions. All capitalized, undefined terms used in these Terms and Conditions and in the Financing Agreement shall have the same meanings given such terms in Section 1 of the Enabling Act and words importing the singular number shall include the plural number and vice versa. In addition, the following words and phrases shall have the following meanings:

“Additional Security” means any additional or special security for the Loan made by the Trust, and any moneys, revenues, property, or rights pledged, transferred, or otherwise made available to secure repayment of such Loan, including any security agreement, resolution, indenture, trust agreement, pledge, deed, mortgage, or other instrument of security, all as described in Schedule D of the Financing Agreement;

“Administrative Fee” means the fee for the administrative expenses of the Trust relating to the Loan made by the Trust calculated as set forth in Schedule A of the Financing Agreement and payable on the Repayment Dates and in the amounts set forth in Schedule C of the Financing Agreement (as such schedule may be amended from time to time in accordance herewith);

“Applicable Authority” means the general or special laws of the Commonwealth or other governing instrument of the Borrower, identified in Schedule A of the Financing Agreement;

“Application” means an application submitted by the Borrower to the Trust and the Department for financial assistance for all or any part of the Costs of the Project, as more fully described in the related Project Approval Certificate;

“Authorized Officer” means the officer or officers of the Borrower, the Trust or the Department, as the case may be, identified in Schedule A of the Financing Agreement;

“Bonds” means the bonds, if any, issued by the Trust that fund or are secured, in part, by the Loan made by the Trust and payments to be made by the Borrower under the Financing Agreement, all as more fully described in the Master Trust Agreement and the applicable Supplemental Master Trust Agreement;

“Borrower” has the meaning given such term in the Financing Agreement.

“Business Day” means any day other than a Saturday, a Sunday or any other day on which banks doing business in the Commonwealth are authorized or required to be closed for business;

“Closing Date” is the closing date for the Loan as described in in Section 6 hereof;

“Code” means the Internal Revenue Code of 1986, as amended, and all Treasury Regulations promulgated thereunder to the extent applicable to the Loan or the Bonds;

“Commonwealth” has the meaning given such term in the Financing Agreement.

“Continuing Disclosure Agreement” means the agreement, if any, between the Borrower and the Trust or, as applicable, the trustee under any Borrower’s bond resolution or trust agreement, as it may be amended from time to time, under which the Borrower agrees for the benefit of the owners of the Bonds to provide annual reports and notices of certain events in order to assist the underwriters of the Bonds to comply with the provisions of Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended;

“Department” means the Department of Environmental Protection of the Commonwealth, or any body, agency, officer, or other instrumentality of the Commonwealth that shall hereafter succeed to the powers, duties, and functions of the Department as they relate to the purposes of the Trust under the Enabling Act;

“DEP Regulations” means the regulations of the Department applicable to the Program appearing in 310 CMR 44.00 or 310 CMR 45.00, as applicable, in each case as such regulations may be amended from time to time;

“Discount Rate” means a rate of interest equal to the “Bond Buyer 20 Bond Index” rate on the date of the Department’s determination that certain costs of the Project are ineligible for financial assistance, pursuant to section 4(c) hereof;

“Drinking Water Revolving Fund” means the fund established and set up on the books of the Commonwealth in accordance with Section 2QQ of Chapter 29 of the General Laws of the Commonwealth;

“Eligible Borrower” has the meaning given such term in the Enabling Act;

“Enabling Act” means Chapter 29C of the General Laws, as amended from time to time, under which the Trust is organized and established for the purpose of assisting Eligible Borrowers in the Commonwealth to initiate, acquire, construct, improve, maintain and operate Water Pollution Abatement Projects and Drinking Water Projects;

“EPA” means the United States Environmental Protection Agency;

“Event of Default” means any of the events or circumstances specified in Section 9(a) hereof;

“Federal Act” means, as applicable, (i) Title VI of the Federal Water Pollution Control Act (Pub. L. 92-500, commonly known as the Clean Water Act), as amended by the Federal Clean Water Act of 1987 (Pub. L. 100-4), as the same may be further amended from time to time, and all regulations of the EPA applicable thereto as amended from time to time; or (ii) Title XIV of the Federal Public Health Service Act (commonly known as the Safe Drinking Water Act), as amended by the Safe Drinking Water Act Amendments of 1996 (Pub. L. 104-182), as the same may be further amended from time to time, and all regulations of the EPA applicable thereto as amended from time to time;

“Federal Capitalization Grant” means amounts provided to the Trust under one or more agreements between the Trust and the United States of America acting by and through the EPA to be applied in accordance with the applicable Federal Act to fund Loans made by the Trust:

“Financing Documents” means, collectively, the Financing Agreement, each related Project Regulatory Agreement, the Local Governmental Obligations or other evidence of indebtedness, the Interim Loan Note, if any, and every other document executed by the Borrower and delivered to the Trust in connection with the Loan or any Interim Loan and any Additional Security therefor.

“Fiscal Year” means the period beginning on July 1 in any year and ending on June 30 in the next succeeding year;

“Initial Obligation Amount” means the amount set forth as the Initial Obligation Amount in Schedule C to the Financing Agreement;

“Interest Rate” means the rate so designated and set forth in Schedule A of the Financing Agreement;

“Interim Loan” shall have the meaning given such term in Section 10 hereof;

“Interim Loan Interest Rate” means the rate, if any, so designated and set forth in Schedule A of the Financing Agreement;

“Interim Loan Note” shall have the meaning given such term in Section 10 hereof;

“Iron and Steel Products” means the following products made primarily of iron or Steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural Steel, reinforced precast concrete, and construction materials;

“Loan” has the meaning given such term in the Financing Agreement;

“Local Bond Counsel” means an attorney or firm of attorneys (who may be counsel to any party under the Financing Agreement) of nationally recognized standing in connection with the issuance of obligations similar to the Local Governmental Obligations, selected by the Borrower and satisfactory to the Trust;

“Local Governmental Obligations” has the meaning given such term in the Financing Agreement;

“Master Trust Agreement” means the Master Trustee Agreement dated as of January 1, 2015 between the Trust and U.S. Bank National Association, as Master Trustee (the “Master Trustee”), as amended;

“Origination Fee” means the fee for the expenses of the Trust relating to the origination of the Loan made by the Trust, payable in the amount and on the Payment Date set forth in Schedule C of the Financing Agreement (as such schedule may be amended from time to time in accordance herewith);

“Payment Dates” means January 15 and July 15 of each year (commencing on the first such date indicated on Schedule C of the Financing Agreement) or, if any such day is not a Business Day, the next succeeding Business Day;

“Payments” means the payments to be made by the Borrower in repayment of the Loan and the interest, if any, payable thereon, which payments shall be made on the Payment Dates and in the amounts set forth in Schedule C of the Financing Agreement (as such schedule may be amended from time to time in accordance herewith);

“Participating Members” means all cities, towns, districts, commissions or other political subdivisions or instrumentalities of the Commonwealth, if any, which are members of the Borrower or which, by law, contract or otherwise, are service recipients of a System;

“Prepayments” means all payments made by or for the account of the Borrower which reduce or eliminate the principal balance due on the Loan by reason of the prepayment of all or any part of the principal prior to the due date thereof;

“Principal Obligation” means, at any time of calculation, the aggregate unpaid principal amount of the Loan, which shall equal the Initial Obligation Amount less all Payments and all Prepayments on account of the principal amount thereof then or theretofore made or provided for by or for the account of the Borrower and received by or for the account of the Trust;

“Program” means the financial assistance program of the Trust established pursuant to the Enabling Act as more fully described in the Master Trust Agreement;

“Project” means each of the Water Pollution Abatement (including, without limitation, any Title 5 Project) or Drinking Water Projects of the Borrower identified in Schedule A of the Financing Agreement and more fully described in the applicable Project Approval Certificate, as the same may be amended from time to time as provided in the related Project Regulatory Agreement;

“Project Account” means the portion allocable to the Project of the Project Fund established pursuant to the Master Trust Agreement;

“Project Approval Certificate” means a certificate issued by the Department in accordance with the Enabling Act and the DEP Regulations approving a Project and the costs thereof to be

financed or refinanced by the Loan, as more fully described in Schedule A of the Financing Agreement;

“Project Completion Certificate” means the Project Completion Certificate delivered by the Borrower pursuant to the applicable Project Regulatory Agreement;

“Project Cost” or “Costs” means any cost of a Project approved by the Department pursuant to the Enabling Act, the applicable Federal Act and/or the DEP Regulations for payment or reimbursement from proceeds of the Loan or an Interim Loan, as applicable, as more fully described in the applicable Project Regulatory Agreement;

“Project Regulatory Agreement” means an agreement between the Department and an Eligible Borrower, executed and delivered to the Trust by such Borrower concurrently with the execution and delivery of the Financing Agreement associated with a Loan made to finance a Project approved by the Department; that contains provisions relating to the Department’s regulation and supervision of the Project in accordance with 301 CMR 45.00;

“Steel” means an alloy that includes at least fifty-percent (50%) iron, between two-hundredths percent (0.02%) and two percent (2%) carbon, and may include other elements;

“Supplemental Master Trust Agreement” means any of the supplements to the Master Trust Agreement providing for the issue of Bonds by the Trust;

“System” shall mean the water pollution abatement facilities or drinking water facilities under the control of the Borrower, as identified, if applicable, in Schedule A of the Financing Agreement, and all improvements and additions thereto including, without limitation, the Project;

“Title 5 Project” means a Project for which the Borrower has developed, or been requested by its Participating Members to administer, a community septic management program, constituting a Water Pollution Abatement Project within the meaning of the Enabling Act, to assist eligible homeowners to upgrade failing septic systems and otherwise to comply with the requirements of 310 CMR 15.00 *et seq.* (“Title 5”) through underlying betterment agreements with such homeowners; and

“Water Pollution Abatement Revolving Fund” means the fund established and set up on the books of the Commonwealth in accordance with Section 2L of Chapter 29 of the General Laws of the Commonwealth.

Section 2. Representations.

(a) The Borrower represents and warrants to the Trust as follows:

(i) The Borrower is a Local Governmental Unit or other Eligible Borrower, as defined in the Enabling Act, with full legal right and authority under the Enabling Act and the Applicable Authority to authorize, execute, and deliver the Financing Documents, to undertake each Project, to operate its System, if any, and to carry out and consummate all transactions contemplated by the foregoing;

(ii) The Borrower and, to the extent required by the Enabling Act or the Applicable Authority, each Participating Member thereof, if any, has duly and validly authorized the execution, delivery and adoption, as applicable, of the Financing Documents, and all approvals, consents, and other governmental or corporate proceedings necessary for the execution and delivery of any of the foregoing or required to make them the legally binding obligations of the Borrower that they purport to be, in accordance with their terms, have been obtained or made;

(iii) No action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, other than as disclosed to the Trust and the Department, is pending or, to the knowledge of the Authorized Officers of the Borrower executing the Financing Agreement, threatened (1) seeking to restrain or enjoin the execution, delivery and adoption, as applicable, of the Financing Documents, or the construction or operation of any Project or (2) contesting or affecting the validity of the Financing Documents, or the power of the Borrower and, to the extent provided by law, each Participating Member thereof, if any, to pledge and apply any revenues or to assess and collect, as applicable, betterments, taxes, rates and charges to pay such Payments and all other costs and expenses of any Project and the System, if any; and neither the corporate existence of the Borrower nor the title to office of any Authorized Officer of the Borrower executing the Financing Documents is being contested;

(iv) The authorization, execution, delivery and adoption, as applicable, of the Financing Documents, and performance of each thereof, will not constitute a breach of, or a default under, any law, ordinance, resolution, agreement, indenture or other instrument to which the Borrower is a party or by which it or any of its properties is bound; and

(v) The Financing Agreement, the Loan, the Interim Loan, if any, and any Additional Security are, and when executed and delivered the Local Governmental Obligations, or other evidence of indebtedness, if any, will be, (1) valid general obligations of the Borrower, for the payment of which its full faith and credit are and will be pledged, enforceable in accordance with their terms and the terms of the Enabling Act and the Applicable Authority, and payable as to principal, premium, if any, and interest (to the extent not paid from other sources) from (a) taxes which may be levied upon all taxable property within the territorial boundaries of the Borrower, subject only to the limit imposed by Chapter 59, Section 21C of the General Laws of the Commonwealth to the extent applicable to the Local Governmental Obligations, provided that taxes levied on certain taxable property located within a development district, if any, established by the Borrower pursuant to Chapter 40Q of the General Laws may be restricted and unavailable to pay debt service on the Local Governmental Obligations or (b) sums which may be annually apportioned and assessed by the Borrower on its Participating Members pursuant to the Applicable Authority, or (2) valid obligations of the Borrower, enforceable in accordance with their terms and the terms of the Enabling Act and the Applicable Authority, payable from any Additional Security and secured by a valid pledge of and lien on and perfected security interest in such Additional Security, all to the extent provided therein and in Schedule D to the Financing Agreement.

(b) The Trust represents and warrants to the Borrower as follows:

(i) The Trust has the full legal right and authority under the Enabling Act to authorize, execute and deliver the Financing Agreement;

(ii) The Trust has duly and validly authorized the execution of the Financing Agreement; and all approvals, consents, and governmental proceedings necessary to make the execution and delivery of the Financing Agreement the legally binding obligation of the Trust have been obtained or completed;

(iii) No action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body is pending or, to the knowledge of the Authorized Officers of the Trust executing the Financing Agreement, threatened seeking to restrain or enjoin the execution and delivery of the Financing Agreement, or contesting or affecting the validity thereof or hereof; and neither the existence of the Trust nor the title to office of any Trustee of the Trust or any Authorized Officer of the Trust executing the Financing Agreement is being contested;

(iv) The authorization, execution and delivery of the Financing Agreement, and performance thereof, will not constitute a breach of, or a default under, any law, resolution, agreement, indenture or other instrument to which the Trust is a party or by which it is bound; and

(v) The Financing Agreement is a valid obligation of the Trust, enforceable in accordance with its terms and the terms of the Enabling Act.

Section 3. The Loan.

(a) On the terms and conditions provided herein, in the Financing Agreement, and in the Project Regulatory Agreement, the Trust hereby agrees to make and disburse the Loan to the Borrower and the Borrower agrees to accept the Loan in an aggregate amount equal to the Initial Obligation Amount; provided, however, that if the Project Regulatory Agreement is revoked or otherwise terminated by the Department for any reason prior to the disbursement of proceeds of the Loan to the Borrower, then the obligation of the Trust to make and disburse the Loan to the Borrower, including without limitation the obligation of the Trust to make and disburse any Interim Loan, shall be null and void and the Financing Agreement shall terminate. For purposes of compliance with provisions of the applicable Federal Act restricting the use of moneys within the Water Pollution Abatement Revolving Fund and the Drinking Water Revolving Fund, any Local Governmental Obligations purchased to evidence the Borrower's repayment obligations under a Loan shall be deemed to be held for the credit of the Water Pollution Abatement Revolving Fund or Drinking Water Revolving Fund, as applicable.

(b) In addition to the conditions provided in Section 6 hereof, the Borrower acknowledges that the obligation of the Trust to make the Loan and to disburse the proceeds thereof to the Borrower in whole or in part as provided in Section 7 hereof is conditional upon the receipt by the Trust on or before such date of moneys available to the Trust for such purpose in amounts sufficient to fund the amount of the Loan to be disbursed on such date. Subject to compliance with the applicable Federal Act, the Enabling Act and the Master Trust Agreement, the Trust shall draw upon and apply such lawfully available funds as promptly as practicable and as lawfully permitted

and shall deposit or cause the Master Trustee to deposit the amounts so received or so much thereof as the Trust shall direct in the Project Accounts at the times and in the amounts directed by the Trust until the aggregate amount so deposited equals the Initial Obligation Amount (or such lesser amount). Amounts deposited in the Project Accounts shall be applied as provided herein and in the Master Trust Agreement.

(c) The Borrower agrees to issue and deliver the Local Governmental Obligations, or other evidence of indebtedness, to the Trust on the Closing Date in aggregate principal amount equal to the Initial Obligation Amount. Subject to Section 11 hereof, the Local Governmental Obligations, or other evidence of indebtedness, shall be issued in such form as shall be approved by the Trust and shall be payable on the Payment Dates and in the aggregate amounts as to principal and interest corresponding to the Payments required under the Financing Agreement. Except as otherwise provided in Section 4 hereof, the Principal Obligation, and the corresponding principal amount of the Local Governmental Obligations, or other evidence of indebtedness, shall mature and bear interest in the amounts for each Payment specified in Schedule C of the Financing Agreement.

(d) Each Payment made by or for the account of the Borrower under the Financing Agreement shall satisfy the corresponding obligation of the Borrower to pay the principal and interest, if any, then due on the Local Governmental Obligations, or other evidence of indebtedness, as the same becomes due on the applicable payment dates therefor, and each payment of principal and interest made by the Borrower on the Local Governmental Obligations, or other evidence of indebtedness, shall satisfy the obligation of the Borrower to pay the corresponding Payment on the Loan then due under the Financing Agreement.

Section 4. Payments.

(a) Except as otherwise provided in this Section 4, Payments on account of the Principal Obligation and interest thereon, if any, shall be payable by the Borrower, on the Payment Dates and in the amounts set forth in Schedule C of the Financing Agreement. In addition to such Payments, the Borrower shall pay to the Trust the Administrative Fee and the Origination Fee on the Payment Dates and in the amounts set forth in Schedule C of the Financing Agreement, which fees shall be subject to annual appropriation by the Borrower. The Trust and the Borrower acknowledge and agree that the schedule of Payments set forth in Schedule C of the Financing Agreement results in the Loan being the financial equivalent of a loan to the Borrower at an interest rate not in excess of two percent (2%) for a term of not in excess of 20 years.

(b) The Trust shall provide the Borrower with written notice of each Payment, Administrative Fee and the Origination Fee due under the Financing Agreement not less than ten (10) Business Days in advance of the applicable Payment Date (provided failure by the Trust to provide such notice or any defect therein shall not diminish the obligation of the Borrower to pay such Payment, Administrative Fee and the Origination Fee in the amounts and at the time provided herein). On or prior to each Payment Date, the Borrower shall pay to the Master Trustee for the account of the Trust, by wire transfer to such account or otherwise in such manner as the Trust may from time to time designate to the Borrower, (i) the Payment then due as set forth in Schedule C of the Financing Agreement, as such schedule may be amended from time to time as provided in this Section 4, and (ii) the Administrative Fee due on such Payment Date set forth in said

Schedule C and (iii) on the first Payment Date, the Origination Fee then due on the Loan set forth in said Schedule C. Except as otherwise provided in Section 9(e) hereof, all payments made by the Borrower under the Financing Agreement shall be applied, *first*, to the interest, if any, on the Loan then due and payable, *second*, to the principal amount of the Loan then due and payable, *third*, to the Administrative Fee then due and payable and, *fourth*, to the Origination Fee then due and payable. Any portion of a Payment or Administrative Fee or Origination Fee not paid in full when due shall bear interest under the Financing Agreement until paid at twelve percent (12%) per annum.

(c) The Borrower acknowledges that the Department, in the exercise of its audit procedures under each Project Regulatory Agreement, may reclassify certain Project Costs paid by the Trust from the Loan or Interim Loan, as ineligible for financial assistance under Section 6 of the Enabling Act. In such event, unless the Borrower shall elect to repay such amount as hereinafter provided, on and after the date of such determination by the Department, a portion of the Principal Obligation (determined on a Pro-Rata Basis as hereinafter defined), equal to the amount of such ineligible Project Costs, shall bear interest at the Discount Rate at the time of such determination. As used in this subsection (c), the term “Pro-Rata Basis” means the portion of each payment allocable to the principal amount of the Loan or Interim Loan, as applicable, payable under the Financing Agreement subsequent to the date of a determination by the Department as described in this subsection (c) as is equal, as nearly as practicable, to the ratio by which the amount of ineligible Project Costs paid by the Trust from the Loan or Interim Loan bears to the total Principal Obligation or total principal amount of the Interim Loan, as applicable, then outstanding. Upon any such occurrence the Trust shall recalculate the payments thereafter payable with respect to the Loan or Interim Loan, as applicable, shall certify such amounts to the Borrower and shall amend Schedule C of the Financing Agreement to reflect the increased payments thereafter payable under the Financing Agreement, and shall surrender the Local Governmental Obligations, Interim Loan Notes or other evidence of indebtedness, as applicable, to the Borrower in exchange for an amended or substitute instrument, reflecting such change in payments. Notwithstanding the foregoing, within thirty (30) Business Days of receipt by the Borrower from the Department or the Trust of written notice that an amount of Project Costs paid by the Trust from the Loan or Interim Loan has been determined by the Department pursuant to the applicable Project Regulatory Agreement to be ineligible for financial assistance under Section 6 of the Enabling Act, the Borrower may (and shall upon demand of the Department with respect to any such amount determined by the Department to be ineligible for funding under the applicable Federal Act) repay such amount to the Trust for redeposit in the applicable account, and the amount so repaid shall be deemed to not have been disbursed by the Trust from the Loan or Interim Loan Account for ineligible Project Costs for purposes of this subsection (c).

(d) The Borrower further acknowledges that the Department, in the exercise of its rights under the Project Regulatory Agreement, may terminate the Project Regulatory Agreement after disbursement of some or all of the amount of the Loan or Interim Loan to the Borrower. In such event, the obligation of the Trust to disburse additional amounts of the Loan or Interim Loan to the Borrower shall terminate and the Borrower shall repay to the Trust the amount theretofore disbursed within thirty (30) days of receipt by the Borrower from the Trust of written notice that the Project Regulatory Agreement has been terminated by the Department and, until so repaid, such amount shall bear interest at the Interest Rate (if disbursed from the Loan) or Interim Loan Interest Rate, if any (if disbursed from the Interim Loan).

(e) Notwithstanding any provision of the Financing Agreement to the contrary, the Borrower and the Trust acknowledge and agree that Schedule C of the Financing Agreement incorporates a schedule of Payments calculated based on the assumption that the Closing Date will be the date indicated in Schedule A of the Financing Agreement. If the Closing Date is different from the date indicated in said Schedule A, the Trust will amend Schedule C to the Financing Agreement (and deliver to the Borrower a copy thereof together with the notice of change in the Closing Date the Trust is required to provide to the Borrower pursuant to Section 6(a) hereof) to adjust the Payments to take into account the actual Closing Date and the accrual of interest on the Loan from such date.

(f) Notwithstanding anything in the Financing Agreement or in the Project Regulatory Agreement to the contrary, all amounts received by the Borrower in payment or prepayment of the obligations of homeowners under the underlying betterment agreements made in connection with a Title 5 Project financed by a Loan or Interim Loan shall be applied by the Borrower either (i) to assist eligible homeowners to upgrade failing septic systems and otherwise to comply with Title 5 through additional betterment agreements with homeowners, or (ii) to pay or provide for all or a portion of the Payments due on the Loan, or payments of principal or interest due on the related Interim Loan, as the case may be, under the Financing Agreement.

Section 5. Prepayments.

(a) The Principal Obligation shall not be subject to prepayment at the option of the Borrower prior to maturity without the prior written consent of the Trust.

(b) The Principal Obligation, and the corresponding principal amount of the Loan, shall be subject to prepayment in part to the extent of any balance remaining in a Project Account upon the receipt by the Trust of the applicable Project Completion Certificate as provided in Section 7(d) hereof at a prepayment price equal to (i) the Principal Obligation so prepaid plus interest, if any, accrued thereon to the prepayment date, plus (ii) an amount equal to all costs of the Trust incurred in connection with such prepayment (including without limitation trustee's fees and expenses, reasonable attorney's fees, and costs, if any, of any corresponding redemption of Bonds, if applicable).

(c) The Principal Obligation, and the corresponding principal amount of the Loan, shall be subject to prepayment at the request of the Trust in whole or in part upon not less than thirty (30) days' notice to the Borrower to the extent of any balance remaining in a Project Account upon a date designated by the Trust, which date shall be not earlier than twenty (20) months or later than twenty-four (24) months following the Closing Date, at a prepayment price equal to the Principal Obligation so prepaid plus interest, if any, accrued thereon to the prepayment date. In the event that the Project is not yet complete due to extenuating circumstances, the Borrower may submit to the Trust a written request for extension providing a compelling and detailed description of all of the relevant facts and circumstances. The Trust may, in its sole and absolute discretion, provide an extension to a date not later than thirty-six (36) Months following the Closing Date.

(d) Unless the Trust shall otherwise agree, any balance in a Project Account, and any Prepayment under the Financing Agreement of less than all of the Principal Obligation, shall be applied pro rata to each scheduled Payment allocable to the principal of the Loan. Upon any

prepayment of the Loan in part, the Trust shall amend the schedule of Payments set forth in Schedule C to the Financing Agreement to reflect such prepayment.

Section 6. Closing.

(a) In addition to the conditions provided in Section 3 of these Terms and Conditions, the obligation of the Trust to make and fund the Loan is expressly conditional upon the receipt by the Trust on or before the Closing Date (which date shall be the date set forth in Schedule A of the Financing Agreement or such earlier or later date as may be designated by the Trust by written notice delivered to the Borrower not less than twenty (20) days prior to such earlier date or, if the Closing Date is to be a later date, not less than twenty (20) days prior to the date set forth in Schedule A of the Financing Agreement) of the following, each in form and substance satisfactory to the Trust:

(i) Copies, certified by an Authorized Officer of the Borrower, of all governmental or corporate proceedings of the Borrower authorizing the Loan and the issuance of the Local Governmental Obligations or other evidence of indebtedness and the execution and delivery or adoption, as applicable, of the Financing Documents;

(ii) A certificate or certificates of Authorized Officers of the Borrower confirming as of the Closing Date the representations and warranties of the Borrower in Section 2 hereof;

(iii) A certificate of Authorized Officers of the Borrower as to the due authorization, execution, delivery and adoption, as applicable, of the Financing Documents related to the Loan, and to the effect that (x) none of the foregoing instruments have been amended or supplemented since their date (except such amendments or supplements which have been approved by the Trust or the Department, as applicable, or which under the terms of the applicable instrument may be executed and delivered or adopted by the Borrower without the consent of the Trust or the Department) or repealed and that each such instrument remains in full force and effect as of the Closing Date, and (y) as of the Closing Date, no Event of Default or Default, as applicable, and no event which with the passage of time or the giving of notice may become or may be declared to be an Event of Default or a Default, shall have happened and shall be continuing under such Financing Documents;

(iv) An opinion of Local Bond Counsel to the effect that the Financing Documents related to the Loan, and the execution, delivery and adoption thereof, as applicable, have been duly authorized by the Borrower in accordance with the Applicable Authority; such Financing Agreement and each Project Regulatory Agreement and any Additional Security have been duly and validly executed and delivered by the Borrower, as applicable, and each constitutes a valid and binding obligation of the Borrower enforceable in accordance with its terms; the Local Governmental Obligations, or other evidence of indebtedness, and any Additional Security have been duly and validly executed by or on behalf of the Borrower and delivered to or upon the order of the Trust in accordance with the Financing Agreement and the Applicable Authority; and the Local Governmental Obligations, or other evidence of indebtedness, and any Additional Security

constitute, as applicable, (1) valid and binding general obligations of the Borrower enforceable in accordance with their terms and payable as to principal, premium, if any, and interest (to the extent not paid from other sources) from (a) taxes which may be levied upon all taxable property within the territorial boundaries of the Borrower, subject only to the limit imposed by Chapter 59, Section 21C of the General Laws of the Commonwealth to the extent applicable to the Local Governmental Obligations, provided that taxes levied on certain taxable property located within a development district, if any, established by the Borrower pursuant to Chapter 40Q of the General Laws may be restricted and unavailable to pay debt service on the Local Governmental Obligations or (b) sums which may be annually apportioned and assessed by the Borrower on its Participating Members pursuant to the Applicable Authority, or (2) valid and binding obligations of the Borrower enforceable in accordance with their terms and the terms of any Additional Security and entitled to the benefits thereof and the Applicable Authority (in rendering the foregoing opinion, such counsel may take an exception on account of bankruptcy, insolvency and other laws affecting creditors' rights generally and to the exercise of judicial discretion in accordance with general equitable principles);

(v) The Local Governmental Obligations, or other evidence of indebtedness, in such denominations and registered to such registered owners, as the Trust shall designate pursuant to Section 11 hereof;

(vi) To the extent required under Section 8(f) hereof, a Continuing Disclosure Agreement, duly executed by the Borrower, in form and substance satisfactory to the Trust; and

(vii) Such further instruments, certificates and opinions as the Trust or its counsel may reasonably request to confirm, as of the Closing Date, the truth and accuracy of the statements made herein and in each Application by the Borrower and compliance, as of the Closing Date, by the Borrower with the provisions hereof and of each Project Regulatory Agreement, the Enabling Act, the Applicable Authority, and the applicable Federal Act.

(b) In addition to any other conditions expressly provided herein, the obligation of the Borrower to accept the Loan and issue the Local Governmental Obligations or other evidence of indebtedness, to the Trust on the Closing Date is expressly conditioned upon the delivery to the Borrower or to the Master Trustee, if applicable, on or before the Closing Date of the following, each to be in form and substance satisfactory to the Borrower and to be made available to the Borrower upon its request:

(i) Copies, certified by an Authorized Officer of the Trust, of all governmental proceedings of the Trust authorizing the Loan and the execution and delivery of the Financing Agreement;

(ii) A certificate or certificates of an Authorized Officer of the Trust confirming as of the Closing Date the representations and warranties of the Trust in Section 2 hereof; and

(iii) An opinion or opinions of counsel to the Trust (who may also be counsel to the Borrower) to the effect that the Trust is duly created and validly existing under the Enabling Act and has the right and power thereunder to execute the Financing Agreement and to make the Loan; the Financing Agreement and the execution and delivery thereof by the Trust have been duly and lawfully authorized by the Trust; and that the Financing Agreement has been duly and lawfully executed and delivered by the Trust, is in full force and effect and is valid and binding on the Trust and enforceable in accordance with its terms (subject to bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights generally and to the exercise of judicial discretion in accordance with general equitable principles).

Section 7. Disbursement of Proceeds.

(a) On the Closing Date the Trust shall credit to the payment of the principal of the Interim Loan, if any, such portion of the proceeds of the Loan as shall be necessary to pay such principal in full (subject to Section 10(e)). Any proceeds of the Loan remaining after such payment of principal of the Interim Loan, if any, shall be deposited in the Project Account and applied by the Trust to finance or refinance Costs of the Project as provided herein, in the related Project Regulatory Agreement and in the Master Trust Agreement. Only amounts on deposit in the Project Account representing moneys of the Trust deposited therein as provided in the Financing Agreement and the Master Trust Agreement shall be available to pay Costs of the Project. Amounts in the Project Account shall be invested by the Trust, and all earnings on investment or deposit of amounts in the Project Account shall be applied by the Trust as provided in the Master Trust Agreement. The Borrower shall have no interest in such earnings.

(b) So long as no Event of Default shall have happened and be continuing hereunder or under the Financing Agreement, but subject to Section 3(b) and Section 10 of these Terms and Conditions, within a reasonable period of time from receipt by the Trust of one or more requisitions in form satisfactory to the Trust signed by an Authorized Officer of the Borrower and approved by the Department as provided in the applicable Project Regulatory Agreement, the Trust shall disburse or direct the Master Trustee to disburse to or for the account of the Borrower as directed in such requisitions the amount or amounts set forth therein and approved by the Department solely to finance or, to the extent provided in the applicable Project Regulatory Agreement, refinance Costs of the applicable Project.

(c) Notwithstanding anything herein or in any Project Regulatory Agreement to the contrary, if all or any portion of the Project Costs financed under the Financing Agreement shall have been paid by the Borrower from the proceeds of outstanding notes or other temporary indebtedness issued or incurred in anticipation of the Loan, any amount paid to the Borrower pursuant to this Section 7 in reimbursement for such Costs shall be held and applied by the Borrower (unless otherwise approved by the Trust) solely to pay or provide for the principal of such notes or other indebtedness when due in accordance with the Enabling Act and the Applicable Authority. The Borrower acknowledges that the Trust shall have no responsibility for the holding, investment or application of any amounts paid to or for the account of the Borrower for such purpose. Notwithstanding anything herein to the contrary, if on the Closing Date any Interim Loan shall be outstanding and unpaid under Section 10 of the Financing Agreement, the Trust shall

apply to the payment of the principal of the Interim Loan such portion of the proceeds of the Loan as shall be necessary to pay such principal in full (subject to Section 10(e)).

(d) Upon receipt by the Trust of the Project Completion Certificate for a Project described in the related Project Regulatory Agreement, any balance remaining on deposit in the applicable Project Account not then payable to or for the account of the Borrower in accordance with the Project Completion Certificate shall be applied at the direction of the Borrower with the prior approval of the Trust to (i) additional Costs of the applicable Project upon amendment of the definition thereof approved by the Department or (ii) the prepayment of the Principal Obligation as provided in Section 5(b) hereof.

(e) Notwithstanding anything herein or in any Project Regulatory Agreement to the contrary, the Trust shall not be required to deposit in each Project Account established in accordance with the Financing Agreement an amount in the aggregate in excess of the eligible Costs of the applicable Project to be financed or refinanced by the Loan as set forth in the applicable Project Approval Certificate and the related Project Regulatory Agreement. In addition, the Trust shall not be required to make any deposits to a Project Account or to direct the Master Trustee to disburse therefrom any amount to or for the account of the Borrower while an Event of Default shall have occurred and be continuing hereunder or under the Financing Agreement or, if directed by the Department, while a Default (as defined in the related Project Regulatory Agreement) shall have occurred and be continuing under the related Project Regulatory Agreement. If an Event of Default shall have occurred and be continuing hereunder or under the Financing Agreement, the Trust may apply amounts on deposit in any Project Account to remedy such default as provided in Section 9(b) hereof and the amount available under the Financing Agreement for Project Costs will be correspondingly reduced.

Section 8. Particular Covenants of the Borrower. The Borrower covenants and agrees as follows:

(a) The Borrower is duly authorized under the Enabling Act, the Applicable Authority and all other applicable law to authorize the execution, delivery and adoption, as applicable, of the Financing Documents, to accept the Loan, to undertake each Project and to perform and consummate all transactions contemplated by the foregoing. For so long as the Loan or the Local Governmental Obligations shall be outstanding, the Borrower shall comply with the provisions of the Financing Documents and all provisions of law applicable to the Loan, any Interim Loan, each Project, any Additional Security, and the Local Governmental Obligations, or other evidence of indebtedness, including without limitation the Enabling Act, the Applicable Authority, the applicable Federal Act and the DEP Regulations, and shall take all actions necessary to fulfill its obligations under the Financing Agreement and under any of the foregoing.

(b) At the date hereof, at the date of delivery of any Interim Loan and at the Closing Date, no mortgage, pledge, lien, security interest or other encumbrance exists or will exist in or upon, or is or will be otherwise outstanding with respect to (1) any Project or the System, if any, or any part thereof or (2) all or any part of, as applicable, the betterments, rates, charges or other revenues derived by the Borrower from its ownership and operation thereof or (3) any Additional Security. For so long as the Loan, the Local Governmental Obligations or any Interim Loan shall be outstanding, without the prior written consent of the Trust, the Borrower shall not mortgage,

pledge, grant any lien on or security interest in or otherwise encumber or permit the encumbrance of, any Project or the System, if any, or, as applicable, the betterments, rates, charges or other revenues derived by the Borrower from its ownership and operation thereof or any part thereof or any Additional Security unless simultaneously therewith the Borrower shall grant to the Trust to further secure its obligations under the Financing Agreement and the Local Governmental Obligations, or other evidence of indebtedness, a mortgage, pledge, lien on or security interest in such property superior to such new encumbrance.

(c) The Borrower shall apply the proceeds of the Loan and any Interim Loan solely to the payment or reimbursement of Project Costs, or to the refinancing of the same as provided in each Project Regulatory Agreement, or as otherwise provided herein and in each Project Regulatory Agreement.

(d) The Borrower acknowledges that by accepting the Loan or any Interim Loan it may be a sub-recipient of federal financial assistance under the federal Single Audit Act of 1984, as amended by the Single Audit Act Amendments of 1996 (the "SAA"). The Borrower further acknowledges that a Project financed or refinanced under the Financing Agreement may be designated by the Trust as a project to which the SAA shall apply. In such event, the Borrower shall conduct a single audit of its use of federal financial assistance for the Project in accordance with the reporting requirements of Office of Management and Budget Circular A-133. Whether or not a Project is so designated, for so long as the Loan, any Interim Loan or the Local Governmental Obligations shall be outstanding the Borrower shall maintain all records and accounts pertaining to the Loan, any Interim Loan, the Local Governmental Obligations, each Project and the System, if any, for such period and as otherwise required by the applicable Federal Act, the DEP Regulations and each Project Regulatory Agreement and shall furnish to the Trust and the Department all reports thereon at the times and in the form required by the applicable Federal Act, the DEP Regulations and each Project Regulatory Agreement or as otherwise reasonably requested by the Trust or the Department. The Borrower shall permit the Trust or any party designated by it upon reasonable prior notice to the Borrower to examine, visit and inspect each Project and the System, if any, and to inspect and make copies of any accounts, books and records of the Borrower pertaining to the Project, the System, if any, the Loan, any Interim Loan or the Local Governmental Obligations.

(e) If any Event of Default described in clause (i) of subsection 9(a) hereof shall occur and be continuing, the Borrower shall promptly upon request of the Trust provide such information to the Trust as shall be necessary for the Trust to exercise the rights provided in Section 11 of the Enabling Act with respect to the Local Aid Distributions of the Borrower and, as applicable, any Participating Member thereof and any parent governmental unit of the Borrower and any such Participating Member. In addition, the Borrower shall provide written notice to the Trust if at any time while the Loan or any Interim Loan is outstanding any Participating Member of the Borrower shall fail to pay to the Borrower all or any part of any assessment levied by the Borrower on account of any payment and such failure shall not be cured within ten (10) Business Days of the due date of such assessment, such notice to be provided to the Trust no later than the close of business on the Business Day next preceding the expiration of such grace period.

(f) The Trust shall provide written notice to the Borrower if at any time the Borrower shall constitute an obligated person with respect to the Bonds within the meaning of Rule 15c2-

12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended. Thereafter, for so long as the Borrower shall constitute an obligated person, the Borrower will comply with and carry out all of the provisions of the Continuing Disclosure Agreement applicable to it and the Local Governmental Obligations. The Trust shall have no liability to the owners of the Bonds or any other person with respect to such disclosure matters. Notwithstanding any other provision of the Financing Agreement, failure of the Borrower to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default under the Financing Agreement; provided, however, that the Trust may (and at the request of the owners of at least 25% in aggregate principal amount of the Bonds outstanding shall), or any owner (including a beneficial owner) of the Bonds may, take such actions as may be necessary or appropriate, including seeking mandate or specific performance by court order, to cause the Borrower to comply with its obligations under this clause (f).

(g) (i) With respect to a Project for construction that is not a Title 5 Project, the Borrower agrees to comply with the prevailing wage rate requirements of the so-called “Davis-Bacon Act” made applicable by Section 513 of the Clean Water Act (33 U.S.C. 1372) or Section 1450(e) of the Safe Drinking Water Act (42 U.S.C. 300j-9(e)), as applicable. The Borrower shall be responsible for monitoring compliance of contractors and subcontractors concerning federal wage rates under the Davis-Bacon Act requirements. In this regard, the Borrower agrees to incorporate wage rate determinations into contract solicitations, include required contract terms into all construction contracts and subcontracts in excess of \$2,000, review subcontracts for compliance, review certified payrolls, conduct employee interviews and complete any other actions required to determine such compliance, all using forms approved by the Department.

(ii) With respect to a Clean Water Project for a treatment works (other than a Title 5 Project) or a Drinking Water Project for public water systems, the Borrower agrees to comply with the requirements of Section 436 of Pub. L. 113-76 (the “American Iron and Steel Requirement”), except as described below. The Borrower acknowledges and agrees that the American Iron and Steel Requirement includes, among others, the requirement that all of the Iron and Steel Products used in the Project are to be produced in the United States unless (A) the Borrower has requested and obtained a waiver of the American Iron and Steel Requirement from the EPA with respect to the Project or (B) the Department has advised the Borrower in writing that the American Iron and Steel Requirement is not applicable to the Project.

(iii) With respect to a Clean Water Project for repair, replacement or expansion of a treatment works, the Borrower agrees (A) to develop and implement a fiscal sustainability plan applicable to the Project that includes: an inventory of critical assets that are a part of the treatment works; an evaluation of the condition and performance of inventoried assets or asset groupings; a certification that the Borrower has evaluated and will be implementing water and energy conservation efforts as part of the plan; and a plan for maintaining, repairing and, as necessary, replacing the treatment works and a plan for funding such activities; and (B) to certify, as a condition of the final disbursement of the proceeds of the Loan or any Interim Loan, that the Borrower has developed and implemented a plan that meets the requirements under clause (A).

(iv) The Borrower certifies that it is not ‘excluded’ or ‘disqualified’ (as such terms are defined in 2 CFR Part 180). The Borrower covenants to comply with 2 CFR Part 180, Subpart C and to require its contractors to comply with said Subpart C, including to pass down the requirement of such compliance to its subcontractors and to each lower tier transaction.

(v) The Borrower agrees (A) to make the Six Good Faith Efforts whenever procuring construction, equipment, services and supplies with proceeds of the Loan and to retain records of such compliance. For this purpose, the “Six Good Faith Efforts” means: (1) ensure Disadvantaged Business Enterprises (as defined in 40 CFR 33.103, “DBEs”) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities (e.g., placing DBEs on solicitation lists and soliciting them whenever they are potential sources); (2) make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process (including, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date); (3) consider in the contracting process whether firms competing for large contracts could subcontract with DBEs (e.g., dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process); (4) encourage contracting with a consortium of DBEs when a contract is too large for one DBE firm to handle individually; (5) use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the United States Department of Commerce; and (6) if the prime contractor awards subcontracts, require the prime contractor to take the steps (1) through (5) of this definition.

(vi) If the Borrower (A) is subject to, or chooses to follow, competitive bidding requirements and (B) the Borrower has received one or more Loans from the Trust in with a combined total of more than \$250,000 in any one fiscal year, then the Borrower agrees to create and maintain a bidders list as described in 40 CFR 33.501.

(vii) The Borrower acknowledges that the EPA must ensure that any connections between the Borrower’s network or information system and EPA networks used by the Borrower to transfer data under the Financing Agreement, are secure. For this purpose, a “connection” is defined as a dedicated persistent interface between the Borrower’s information technology (“IT”) system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition. If the Borrower’s connections, as so defined, do not go through the Environmental Information Exchange Network or EPA’s Central Data Exchange, the Borrower agrees to contact the EPA project officer and work with the designated EPA regional/headquarters information security officer to ensure that the connections meet EPA security requirements, including entering into interconnection service agreements, as appropriate. This covenant does not apply to manual entry of data by the Borrower into systems operated and used by EPA’s regulatory programs for the submission of reporting and/or compliance data.

(h) The Borrower shall comply with (A) the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d *et seq.*; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6102; Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 95-500; and all Executive Orders and regulations promulgated under the foregoing; and (B) all other applicable federal cross-cutting authorities (see Schedule I hereto for a non-exhaustive list of such authorities). In addition, the Borrower specifically acknowledges that the Project must undergo a state environmental review process that conforms generally to the National Environmental Policy Act of 1969, as amended (NEPA), as provided in the Project Regulatory Agreement.

(i) The Borrower will maintain accounts with respect to the Project according to generally accepted accounting principles as issued by the Governmental Accounting Standards Board (GASB), including the standards relating to the reporting of infrastructure assets pursuant to GASB Statement No. 34, or any successor thereto.

(j) The Borrower acknowledges that by accepting the Loan or any Interim Loan the Project shall be subject to the prohibition on certain telecommunications and video surveillance services or equipment set forth in Section 889 of Pub. L. 115-232 and 2 CFR 200.216 (the “Prohibition”). The Borrower agrees that proceeds of the Loan or any Interim Loan under this Financing Agreement shall not be used to procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain equipment, system or service that uses “covered telecommunications equipment or services” as a substantial or essential component of any system, or as critical technology as part of any system. For purposes of this Section 8(j), “covered telecommunications equipment or services” means any of the following: (A) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (B) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); (C) telecommunications or video surveillance services provided by such entities or using such equipment; or (D) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of the People’s Republic of China. The Borrower further agrees that it will include a condition in each construction contract for the Project that the contractor will: (i) comply with the Prohibition; and (ii) pass down the requirement to comply with the Prohibition in any subcontract or other lower tier contract with respect to such Project. Certain equipment, systems or services subject to the Prohibition are recorded in the United States’ System for Award Management, however, the Borrower acknowledges that there is no exhaustive list of components and services that fall under the Prohibition.

(k) The Borrower acknowledges that by accepting the Loan or any Interim Loan the Project shall be subject to the Build America, Buy America Requirements (defined below). The Borrower shall: (1) comply with all federal requirements applicable to the assistance received (including those imposed by the Infrastructure Investment and Jobs Act (“IIJA”), Public Law No.

117-58) which the Borrower understands includes, but is not limited to, the following requirements: that all of the iron and steel, manufactured products, and construction materials used in the Project are to be produced in the United States (“Build America, Buy America Requirements”) unless (i) the Borrower has requested and obtained a waiver from the cognizant Federal agency pertaining to the Project (i.e. the Federal agency contributing the greatest amount of Federal funds to the Project) or the Project is otherwise covered by a general applicability waiver or (ii) the EPA and all of the contributing Federal agencies (if any) have otherwise advised the Borrower in writing that the Build America, Buy America Requirements are not applicable to the Project; and (2) comply with all record keeping and reporting requirements under all applicable legal authorities, including any reports required by the funding authority (such as EPA and/or the Commonwealth), such as performance indicators of program deliverables, information on costs and project progress. The Borrower understands that (x) each contract and subcontract related to the Project is subject to audit by appropriate federal and Commonwealth entities and (y) failure to comply with the applicable legal requirements and this Agreement may result in a default hereunder that results in a repayment of the assistance agreement in advance of the maturity of the Loan or Local Governmental Obligations or any Interim Loan, termination and/or repayment of other types of financial assistance, and/or other remedial actions. To the extent the Project is subject to the Build America, Buy America Requirements, the Borrower acknowledges and agrees that each construction contract related to the Project shall contain a clause requiring compliance with such requirements, substantially as follows:

“The [Contractor] acknowledges to and for the benefit of [Borrower] (“Owner”) and the Massachusetts Clean Water Trust (the “Funding Authority”) that it understands the goods and services under this [Agreement] are being funded with federal monies and have statutory requirements commonly known as “Build America, Buy America” that requires all of the iron and steel, manufactured products, and construction materials used in the project to be produced in the United States (“Build America, Buy America Requirements”) including iron and steel, manufactured products, and construction materials provided by the Contractor pursuant to this [Agreement]. The Contractor hereby represents and warrants to and for the benefit of the Owner and Funding Authority (a) the Contractor has reviewed and understands the Build America, Buy America Requirements, (b) all of the iron and steel, manufactured products, and construction materials used in the project will be and/or have been produced in the United States in a manner that complies with the Build America, Buy America Requirements, unless a waiver of the requirements is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the Build America, Buy America Requirements, as may be requested by the Owner or the Funding Authority. Notwithstanding any other provision of this [Agreement], any failure to comply with this paragraph by the Contractor shall permit the Owner or Funding Authority to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney’s fees) incurred by the Owner or Funding Authority resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the Funding Authority or any damages owed to the Funding Authority by the Owner). If the Contractor has no direct contractual privity with

the Funding Authority, as a lender or awardee to the Owner for the funding of its project, the Owner and the Contractor agree that the Funding Authority is a third-party beneficiary and neither this paragraph (nor any other provision of this [Agreement] necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the Funding Authority.”

(l) For construction Projects, the Borrower agrees to comply with signage requirements consistent with EPA guidance as follows:

(i) *Investing in America Emblem.* The Borrower will ensure that a sign is placed at construction sites supported in whole or in part by Loan displaying the official *Investing in America* emblem and must identify the Project as a “*project funded by President Biden’s Bipartisan Infrastructure Law*” or “*project funded by President Biden’s Inflation Reduction Act*,” as applicable. Construction is defined at 40 CFR 33.103 as “erection, alteration, or repair (including dredging, excavating, and painting) of buildings, structures, or other improvements to real property, and activities in response to a release or a threat of a release of a hazardous substance into the environment, or activities to prevent the introduction of a hazardous substance into a water supply.” The sign must be placed at construction sites in an easily visible location that can be directly linked to the work taking place and must be maintained in good condition throughout the construction period. The Borrower will ensure compliance with the guidelines and design specifications provided by EPA for using the official *Investing in America* emblem available at: <https://www.epa.gov/invest/investing-america-signage>.

(ii) *Procuring Signs.* Consistent with Section 6002 of RCRA, 42 U.S.C. 6962, and 2 CFR 200.323, the Borrower is encouraged to use recycled or recovered materials when procuring signs. Signage costs are considered an allowable cost under this assistance agreement provided that the costs associated with signage are reasonable. Additionally, to increase public awareness of projects serving communities where English is not the predominant language, the Borrower is encouraged to translate the language on signs (excluding the official *Investing in America* emblem or EPA logo or seal) into the appropriate non-English language(s). The costs of such translation are allowable, provided the costs are reasonable.

(iii) *Public or Media Events.* The Borrower is encouraged to notify the EPA of public or media events publicizing the accomplishment of significant events related to construction projects as a result of this agreement and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days’ notice.

(m) The Borrower represents that it has complied, and will continue to comply, with the Federal Flood Risk Management Standard defined by Executive Order No. 11988, as amended by Executive Order No. 13960, and made applicable to the Project by Executive Order 14030 (*i.e.* it has determined whether the Project is located in or will affect a floodplain; if so, it has prepared a floodplain assessment and sought alternate locations; if there is no practical alternative location, it has documented the mitigating measures or design modifications taken to reduce the threat to

the floodplain from Project and has informed the Project-area community as to the need for the Project to be located where it is).

(n) For so long as the Loan or any Interim Loan or Local Governmental Obligations shall be outstanding, the Borrower shall duly observe and comply with each of the additional covenants and conditions set forth in Schedule D of the Financing Agreement.

Section 9. Defaults and Remedies.

(a) The occurrence of any of the following events shall constitute, and is herein defined to be, an Event of Default under the Financing Agreement and the Local Governmental Obligations, or other evidence of indebtedness:

(i) if the Borrower shall fail to pay when due all or any part of any payment of principal of or interest on the Loan, any Interim Loan or the Local Governmental Obligations, or other evidence of indebtedness;

(ii) if the Borrower shall fail to pay when due any installment of the Administrative Fee payable under the Financing Agreement or the Origination Fee or any portion thereof and such failure shall continue for a period of thirty (30) days after written notice thereof shall be given to the Borrower by the Trust;

(iii) if the Borrower shall fail to perform and observe any covenant, agreement or condition on its part provided in the Financing Agreement or in the Local Governmental Obligations, or other evidence of indebtedness, or in any Additional Security, which failure is not addressed in another clause of this Section 9(a), and such failure shall continue for a period of thirty (30) days after written notice thereof shall be given to the Borrower by the Trust; provided if such failure cannot be remedied within such thirty (30) day period, it shall not constitute an Event of Default under the Financing Agreement if corrective action satisfactory to the Trust is instituted by the Borrower within such period and diligently pursued until the failure is remedied;

(iv) if any representation or warranty made by or on behalf of the Borrower in the Financing Agreement or in any Application or in any Additional Security shall prove to have been incorrect or to be misleading in any material respect as and when made;

(v) if (x) an order, judgment or decree is entered by a court of competent jurisdiction (a) appointing a receiver, trustee, or liquidator for the Borrower or the whole or any substantial part of any Project or the System, if any, (b) granting relief in involuntary proceedings with respect to the Borrower under the federal bankruptcy act, or (c) assuming custody or control of the Borrower or of the whole or any substantial part of any Project or the System, if any, under the provision of any law for the relief of debtors, and the order, judgment or decree is not set aside or stayed within sixty (60) days from the date of entry of the order, judgment or decree or (y) the Borrower (a) admits in writing its inability to pay its debts generally as they become due, (b) commences voluntary proceedings in bankruptcy or seeking a composition of indebtedness, (c) makes an assignment for the benefit of its creditors, (d) consents to the appointment of a receiver of the whole or any substantial part of any Project or the System, if any, or (e) consents to the assumption by

any court of competent jurisdiction under any law for the relief of debtors of custody or control of the Borrower or of the whole or any substantial part of any Project or the System, if any, or (z) legislation shall be enacted by the Commonwealth (a) appointing a receiver or trustee for the Borrower or the whole or any substantial part of any Project or the System, if any, or (b) assuming custody or control of the Borrower or of the whole or any substantial part of any Project or the System, if any, or (c) providing for a moratorium upon the payment of the principal of or interest on the Loan, any Interim Loan or the Local Governmental Obligations;

(vi) if the Borrower shall fail to pay when due (whether at maturity or upon redemption or otherwise) any principal of or interest on any indebtedness of the Borrower for borrowed money, other than the Loan, any Interim Loan, the Local Governmental Obligations and indebtedness described in Chapter 40D of the General Laws of the Commonwealth;

(vii) if an 'event of default' (however defined) shall occur in any Additional Security (giving effect to all applicable grace and cure periods, if any, set forth in such Additional Security); and

(viii) if a Default shall occur under a Project Regulatory Agreement (as defined therein) and the Department shall request that the Trust declare an Event of Default under the Financing Agreement.

(b) In addition to its other remedies provided herein, if an Event of Default specified in clause (i) or clause (v) of subsection 9(a) hereof shall occur and be continuing, the Trust may proceed to enforce its rights under the Financing Agreement and under the Local Governmental Obligations, or other evidence of indebtedness, by exercise of the following remedies in such order of priority as the Trust shall determine in its discretion:

(i) if any Payments shall be due and unpaid under the Financing Agreement, the Trust may exercise the rights provided in Section 11 of the Enabling Act with respect to the Local Aid Distributions of the Borrower and, as applicable, any Participating Member thereof and any parent governmental unit of the Borrower and any such Participating Member;

(ii) if any payments of principal of or interest on the Loan or any Interim Loan shall be due and unpaid under the Financing Agreement, the Trust may apply to such default any or all undisbursed amounts allocable to the Loan, the Interim Loan, if any, or any other loan or interim loan made by the Trust to the Borrower; or

(iii) by notice to the Borrower the Trust may declare the principal of the Loan and any Interim Loan and all payments on account of principal or interest payable thereon, and the corresponding principal amount of the Local Governmental Obligations, to be immediately due and payable and, upon such declaration, the Principal Obligation, principal of any Interim Loan and all interest, if any, accrued thereon shall be and become immediately due and payable, anything herein or in the Local Governmental Obligations, or other evidence of indebtedness, to the contrary notwithstanding.

(c) If an Event of Default specified in clause (vii) of subsection 9(a) shall occur and be continuing, the Trust shall, if directed by the Department, exercise on behalf of the Department any and all remedies available to the Department upon a Default under the applicable Project Regulatory Agreement.

(d) Notwithstanding anything herein to the contrary, if any Event of Default under the Financing Agreement or in any Additional Security shall occur and be continuing, the Trust may proceed to protect its rights under the Financing Agreement, and may seek to compel compliance by the Borrower with the terms and provisions hereof and of the Local Governmental Obligations, or other evidence of indebtedness and of any Additional Security, by suit or suits in equity or at law, for the specific performance of any covenant, term or condition hereof or thereof, or in aid of the execution of any power granted herein or therein, and, except as herein limited, may exercise any other right or remedy upon such default as may be granted to the Trust under the Additional Security, if any, or under the Enabling Act, the Applicable Authority, or under any other applicable provision of law.

(e) During the continuance of an Event of Default, the Trust shall apply all amounts received upon the exercise of its rights and remedies under the Financing Agreement as follows and in the following order:

(i) to the payment of the reasonable and proper charges (including attorneys' fees) of the Trust and the Department incurred in the exercise of any right or remedy under the Financing Agreement or under any Project Regulatory Agreement;

(ii) to the payment and satisfaction of all interest then due and unpaid under the Financing Agreement upon any defaulted Payments as provided in Section 4(b) hereof and any defaulted payments of interest (if any) on any Interim Loan;

(iii) to the payment and satisfaction of all Payments then due and unpaid under the Financing Agreement, as such Payments may be adjusted as provided in Section 4 hereof, and to the payment and satisfaction of all payments on account of principal and interest, if any, on any Interim Loan then due and unpaid under the Financing Agreement and, in either case, if the amount available is not sufficient to pay such payments then due and payable, *first* to the payment of the portion of such payments due and unpaid representing interest and *second* to the portion of such payments due and unpaid representing the principal and, in either case, ratably in order of the due dates thereof;

(iv) to the reimbursement to the applicable account of any amounts withdrawn therefrom as provided in clause (ii) of subsection 9(b);

(v) *first*, to the payment and satisfaction of all interest then due and unpaid under the Financing Agreement upon any due and unpaid Administrative Fees as provided in Section 4(b) hereof, and, *second*, to the payment and satisfaction of all Administrative Fees then due and unpaid under the Financing Agreement; and

(vi) *first*, to the payment and satisfaction of all interest then due and unpaid under the Financing Agreement upon any due and unpaid Origination Fee as provided in

Section 4(b) hereof, and, *second*, to the payment and satisfaction of the Origination Fee or the portion thereof then due and unpaid under the Financing Agreement.

(f) No remedy conferred upon or reserved to the Trust is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Financing Agreement or in any Additional Security or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient.

Section 10. Interim Financing; Principal Forgiveness.

(a) Subject to the availability to the Trust of moneys for such purpose and the provisions of Section 3(a) hereto, if the Closing Date set forth in Schedule A of the Financing Agreement is more than forty five (45) days subsequent to the date of execution and delivery of the Financing Agreement by the Trust, the Trust (upon not less than ten (10) Business Days prior notice from the Borrower) agrees to provide interim financing (an "Interim Loan") to the Borrower to pay or provide for all or any part of the eligible Costs of any Project (i) incurred by the Borrower on and after the date of execution and delivery by the Borrower of the Financing Agreement or (ii) incurred by the Borrower prior to the date of its execution and delivery of the Financing Agreement and either (x) paid by the Borrower from the proceeds of notes or other obligations issued by the Borrower in anticipation of the Loan, or (y) paid by the Borrower from other moneys available to the Borrower under a valid declaration of official intent to reimburse such payment from the proceeds of the Loan. The Interim Loan shall be evidenced by a note (the "Interim Loan Note") issued by the Borrower to the Trust pursuant to the Applicable Authority in form and substance satisfactory to the Trust and otherwise as hereinafter provided.

(b) The Interim Loan Note shall be dated the date of its execution and delivery by the Borrower, shall mature and be payable on the Closing Date (subject to renewal at the option of the Trust to one or more dates not later than three (3) years subsequent to such date of execution and delivery or, if later, the expected completion date of the applicable Projects as determined by the Department), shall be in principal amount equal to the aggregate amount of proceeds thereof from time to time disbursed to or for the account of the Borrower and shall be in such maximum aggregate principal amount as shall be requested by the Borrower not exceeding the lesser of (i) the aggregate eligible Costs of each Project which have been or are expected to be expended at or prior to the maturity date of the Interim Loan Note (as set forth in the applicable Project Regulatory Agreement) and (ii) the Initial Obligation Amount set forth in Schedule C of the Financing Agreement (or such lesser amount as shall equal the total eligible Costs of the Projects approved by the Department at the date of the Interim Loan Note). The principal amount of the Interim Loan Note from time to time outstanding shall bear interest from the date or dates of disbursement thereof to or for the account of the Borrower until repaid at the Interim Loan Interest Rate set forth in Schedule A of the Financing Agreement, calculated on the basis of actual days and a 365/366 day year, payable at maturity.

(c) Upon execution and delivery by the Borrower of the Interim Loan Note, the Trust shall, subject to the availability to the Trust of moneys for such purpose, disburse amounts

(representing proceeds of the Interim Loan) pursuant to requisitions for payment or reimbursement of Costs of the applicable Project submitted to the Trust by the Borrower. For purposes of this Section 10, all provisions of Section 7(a), (c) and (e) hereof applicable to the Project Account and the requisition and disbursement therefrom of proceeds of the Loan, shall be equally applicable (to the extent not inconsistent herewith) to the requisition and disbursement of proceeds of the Interim Loan. Notwithstanding the foregoing, as more fully described in Section 4(c) and (d), the Borrower acknowledges that the Department, in the exercise of its rights under the Project Regulatory Agreement, may reclassify certain Project Costs as ineligible and/or terminate the Project Regulatory Agreement and in such events the Trust may have no further obligation to disburse proceeds of the Interim Loan and the Borrower may be obligated to repay all or a portion of disbursements previously made.

(d) Notwithstanding anything herein to the contrary, the obligation of the Trust to make and fund the Interim Loan is expressly conditional upon the receipt by the Trust of the following, each in form and substance satisfactory to the Trust:

(i) A certificate or certificates of Authorized Officers of the Borrower as to the due authorization, execution, delivery and adoption, as applicable, of the Financing Agreement, any Additional Security, the Project Regulatory Agreement and the Interim Loan Note, and confirming as of the date of execution and delivery of the Interim Loan Note the representations and warranties of the Borrower in Section 2 hereof applicable to the Interim Loan, and to the further effect that (x) none of the foregoing instruments have been amended or supplemented since their date (except such amendments or supplements which have been approved by the Trust or the Department, as applicable, or which under the terms of the applicable instrument may be executed and delivered or adopted by the Borrower without the consent of the Trust or the Department) or repealed and that each such instrument remains in full force and effect as of such date, and (y) as of such date, no Event of Default or Default, as applicable, and no event which with the passage of time or the giving of notice may become or may be declared to be an Event of Default or a Default, shall have happened and shall be continuing under the Financing Agreement or any Project Regulatory Agreement;

(ii) The Interim Loan Note duly executed by Authorized Officers of the Borrower;

(iii) An opinion of Local Bond Counsel to the effect that the Financing Agreement, each Project Regulatory Agreement, any Additional Security, and the Interim Loan Note have been duly authorized, executed and delivered by the Borrower in accordance with the Applicable Authority and each constitutes a valid and binding obligation of the Borrower enforceable in accordance with its terms and the terms of the Enabling Act and the Applicable Authority; the Interim Loan Note has been duly and validly executed by or on behalf of the Borrower and delivered to or upon the order of the Trust in accordance with the Financing Agreement and the Applicable Authority; and the Interim Loan Note constitutes (1) a valid and binding general obligation of the Borrower enforceable in accordance with its terms and payable as to principal, premium, if any, and interest (to the extent not paid from other sources) from (a) taxes which may be levied upon all taxable property within the territorial boundaries of the Borrower, subject only to the

limit imposed by Chapter 59, Section 21C of the General Laws of the Commonwealth to the extent applicable to the Interim Loan Note, provided that taxes levied on certain taxable property located within a development district, if any, established by the Borrower pursuant to Chapter 40Q of the General Laws may be restricted and unavailable to pay debt service on the Interim Loan Note or (b) sums which may be annually apportioned and assessed by the Borrower on its Participating Members pursuant to the Applicable Authority, or (2) a general or special obligation of the Borrower (as provided in any Additional Security) payable from any Additional Security and any other moneys, funds and accounts provided in the Financing Agreement and secured by a valid pledge of and lien on and perfected security interest in any such Additional Security (in rendering the foregoing opinion, such counsel may take an exception on account of bankruptcy, insolvency and other laws affecting creditors' rights generally and to the exercise of judicial discretion in accordance with general equitable principles); and

(iv) An Interim Loan Origination Fee, in an amount equal to one-tenth of one percent (.1%) of the maximum aggregate principal amount of the Interim Loan Note, but not less than \$500 or more than \$1,000, as stated in Schedule A.

(e) *Principal Forgiveness.* Schedule B contains or will contain the provisions related to any principal forgiveness for which Loan and the Interim Loan qualifies (if any). Except as described in Schedule B, principal forgiveness will be applied to reduce or retire the Interim Loan Note upon completion of the Project. Notwithstanding anything herein to the contrary, Schedule B may be amended by the Trust from time to time upon notice to the Borrower (i) to reflect any change to the amount, if any, of principal forgiveness expected to be applied to the Loan or the Interim Loan, (ii) to comply with any additional conditions or restrictions applicable to the Trust and/or the Borrower resulting from the source(s) of funds used by the Trust to provide such principal forgiveness and (iii) to make such other changes as the Trust, in its sole reasonable discretion, deems advisable to permit the orderly administration of principal forgiveness.

Section 11. Assignment, Transfer and Exchange.

(a) The Borrower acknowledges that the Trust may pledge and assign the Financing Agreement or all or part of its rights under the Financing Agreement, and the right, title and interest of the Trust in and to all or part of the Loan, the Local Governmental Obligations and Payments thereunder and under the Financing Agreement or any Additional Security to the Master Trustee in accordance with the Master Trust Agreement and in connection with any such assignment may transfer to the Master Trustee the Loan, the Local Governmental Obligations and any or all Payments and the Local Governmental Obligations attributable thereto, and the Borrower by its execution and delivery of the Financing Agreement expressly consents to any such assignment and transfer.

(b) In connection with any assignment by the Trust provided herein, the Borrower further agrees to deliver the Local Governmental Obligations, or other evidence of indebtedness, to the Trust on the Closing Date, or on any date thereafter when the Local Governmental Obligations, or other evidence of indebtedness, may be assigned, exchanged or transferred in accordance with its terms and the terms of the Financing Agreement, in such denominations, registered to such owners, in one or more series, and otherwise in such form and tenor as the Trust

may request to evidence the Loan made, and the Payments payable, under the Financing Agreement, separately or as a whole, or in part one or in part the other, or in any combination thereof, provided that the aggregate principal amount payable on the Local Governmental Obligations, or other evidence of indebtedness, shall not exceed the Principal Obligation payable under the Financing Agreement on the Loan plus interest, if any, accrued and to accrue thereon as provided therein and herein.

(c) Except as hereinabove provided, so long as any Event of Default shall not have occurred under the Financing Agreement and be continuing, the Trust shall not assign the Financing Agreement or the Loan made hereby, or transfer or sell the Local Governmental Obligations], without the prior written approval of the Borrower.

(d) The Borrower may not assign the Financing Agreement or the Loan or the Local Governmental Obligations, or any of its rights or obligations under the Financing Agreement or hereunder, without the express prior written consent of the Trust.

Section 12. Action by Parties. Where the Financing Agreement shall provide for any direction, consent, approval or other action to be taken or made by the Borrower, the Trust or the Department hereunder or under the Financing Agreement, such direction, consent, approval or other action shall be sufficiently taken or made for all purposes of the Financing Agreement if taken or made by Authorized Officers of the Borrower, the Trust or the Department, as the case may be.

Section 13. Notices. All notices, consents, certificates and other communications under the Financing Agreement shall be sufficiently given when delivered by hand or courier or sent by signed electronic mail or registered or certified mail, postage prepaid, addressed to the Addresses for Notice set forth in Schedule A of the Financing Agreement or to such further or different address as any of the parties to the Financing Agreement or the Department may designate in writing to the other notice parties indicated in said Schedule A.

Section 14. Severability. In the event any provision of the Financing Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 15. No Right of Set-Off. By their execution and delivery of the Financing Agreement, the Trust and the Borrower agree that, except as otherwise provided in the Financing Agreement, neither the Trust nor the Borrower shall have any right to set-off and apply any amount at any time held, and other indebtedness at any time owing, by the Trust to or for the account of the Borrower, or by the Borrower to or for the account of the Trust, as applicable, against any and all of the obligations of the Borrower or the Trust, as applicable, now or hereinafter existing on the Local Governmental Obligations, or other evidence of indebtedness, or otherwise under the Financing Agreement.

Section 16. Amendment of Financing Agreement and Other Instruments. Except as expressly provided herein or in the Financing Agreement with respect to the amendment of Schedule A, Schedule B, Schedule C and Schedule D of the Financing Agreement, the Financing Agreement and the Local Governmental Obligations, or other evidence of indebtedness, may not

be amended, modified or changed in any respect except in writing signed by the parties to the Financing Agreement. No such amendment, modification or change of the Financing Agreement which, in the reasonable opinion of the Department (expressed in a certificate of an Authorized Officer of the Department delivered to the Trust prior to the execution and delivery of such amendment, modification and change by the Trust), materially and adversely affects the rights and obligations of the Department under any Project Regulatory Agreement, shall be effective until the Department shall have consented in writing thereto. The Trust shall deliver a copy of any such proposed amendment, modification or change of the Financing Agreement to the Department at least ten (10) days prior to the execution and delivery thereof by the Trust.

Section 17. Term.

(a) The term of the Financing Agreement shall be from the date of execution and delivery thereof by the parties to the Financing Agreement until all payments on account of principal of and interest on the Loan and any Interim Loan, all Administrative Fees and the Origination Fee payable under the Financing Agreement shall have been paid in full or provision for the payment thereof shall have been duly provided for in accordance with this Section 17.

(b) Notwithstanding anything in subsection 17(a) to the contrary, prior to the payment of all payments on account of principal of and interest on the Loan and any Interim Loan payable under the Financing Agreement at the times and in the manner provided herein, the Borrower may defease its obligations under the Financing Agreement and under the Local Governmental Obligations, or other evidence of indebtedness, and upon such defeasance shall be discharged from its obligations, covenants and agreements under the Financing Agreement and under the Local Governmental Obligations, or other evidence of indebtedness, if the Borrower shall deposit with the Trust (in the case of payments related to any Interim Loan) or the Master Trustee for the account of the Trust (in the case of Payments related to the Loan) either moneys in an amount sufficient, or Defeasance Obligations (as defined in the Master Trust Agreement), the principal installments of and/or interest on which when due, without reinvestment, will provide moneys which, together with the moneys, if any, deposited with the Trust or the Master Trustee, as the case may be, at the same time, will be sufficient, to pay (i) all payments on account of principal of and interest on the Loan and any Interim Loan payable under the Financing Agreement at the times and in the amounts provided herein on the scheduled Payment Dates therefor, (ii) all Administrative Fees payable to the Trust under the Financing Agreement accrued to such date of deposit, (iii) the Origination Fee or any portion thereof that has not previously been paid to the Trust and (iv) any and all other amounts incurred or reasonably expected to be incurred by the Trust in effecting such defeasance.

Section 18. Financing Loans with Proceeds of Bonds, Pledging Loans to Bonds; Additional Borrower Requirements. Notwithstanding anything in Section 10 hereof to the contrary, at the sole option of the Trust, upon not less than ten (10) days' prior notice to the Borrower, the Trust may finance any Loan with proceeds of Bonds issued by the Trust and pledge such Loan as security for such Bonds, provided that no such pledge and financing shall increase or otherwise adversely affect the obligations of the Borrower by changing the payment terms of the Loan or the interest thereon or the security therefor, without the prior written consent of the Borrower. Upon such a pledge and financing of a Loan by the Trust a Borrower may have to comply with certain additional requirements, including, without limitation:

(i) to update its Loan Questionnaire by completing and signing a Verification Form;

(ii) to sign such other documents as determined by bond counsel for such Bonds to be necessary and appropriate; and

(iii) to make such certifications as determined by bond counsel for such Bonds to be necessary and appropriate, including: (1) that it will not take, or permit to be taken, any action or actions that would cause any Bond, to which a Loan or a Local Governmental Obligation is pledged, to be an “arbitrage bond” within the meaning of Section 148 of the Code or a “private activity bond” within the meaning of Section 141(a) of the Code or that would cause any such Bond to be “federally guaranteed” within the meaning of Section 149(b) of the Code, or that would otherwise cause any amounts payable with respect to such Bonds to become included in the gross income of a holder of such Bonds for federal income tax purposes; and (2) that it will take all actions, maintain all records and accounts, and make all reports requested by the Trust or required by any provision of applicable law or the Project Regulatory Agreement, necessary to comply with, or necessary to permit the Trust to comply with, the provisions of Section 148(f) of the Code.

Section 19. Execution in Counterparts; Electronic Signatures. The Financing Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Electronic signatures shall be deemed original signatures for purposes of the Financing Agreement and all matters related thereto, with such electronic signatures having the same legal effect as original signatures. The parties to the Financing Agreement agree that the Financing Agreement, any amendment thereto or any other document necessary for the consummation of the transaction contemplated by the Financing Agreement may be accepted, executed or agreed to through the use of an electronic signature in accordance with applicable law and as so accepted, executed or agreed, will be binding on all parties to the Financing Agreement.

Section 20. Applicable Law. The Financing Agreement, including these Terms and Conditions and all schedules to the Financing Agreement, shall be governed by and construed in accordance with the laws of the Commonwealth.

Section 21. Further Assurances. The Borrower shall, at the request of the Trust, authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, covenants and agreements granted or made or intended to be granted or made by the Financing Agreement and the Local Governmental Obligations, or other evidence of indebtedness.

Section 22. Prior Financing Agreements. Except as otherwise provided herein, the Financing Agreement merges and supersedes all prior negotiations, representations, and agreements between the parties relating to the subject matter of the financing of the Project and the Financing Agreement, including these Terms and Conditions and constitutes the entire agreement between the parties in respect to the Financing Agreement and hereof.

CROSS-CUTTING FEDERAL AUTHORITIES

The following list of cross-cutting federal authorities is provided for reference only; additional applicable federal cross-cutting authorities may exist. While the Super-Cross Cutters apply in all circumstances, certain of the Other Cross-Cutting Authorities listed may not apply in all circumstances.

Super Cross-Cutters

- Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d *et seq.*
- Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794
- The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6102
- Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 95-500

Other Cross-Cutting Authorities

- Executive Order 11246 (1965) – *Equal Employment Opportunity*, as amended
- Archeological and Historic Preservation Act, 54 U.S.C. 312502
- Clean Air Act, 42 U.S.C. 7506(c)
- Coastal Barriers Resources Act, 16 U.S.C. 3501 *et seq.*
- Coastal Zone Management Act of 1972, 16 U.S.C. 1451 *et seq.*
- Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.*
- Executive Order 12898 (1994) – *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*
- Farmland Protection Policy Act, 7 U.S.C. 4201 *et seq.*
- Fish and Wildlife Coordination Act, 16 U.S.C. 661 *et seq.*
- Executive Order 14030 (2021) – *Climate-Related Financial Risk* (reinstating Executive Order 13690 (2015) – *Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input*, amending Executive Order 11988 (1977) – *Floodplain Management*)
- Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*
- Marine Mammal Protection Act of 1972, Pub. L. 92-522.
- Migratory Bird Treaty Act, 16 U.S.C. 703 *et seq.*
- National Historic Preservation Act, 54 U.S.C. 300101 *et seq.*
- Executive Order 11990 (1977) – *Protection of Wetlands*
- Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*
- Wild and Scenic Rivers Act, 16 U.S.C. 1271 *et seq.*
- Executive Order 11593 (1971) – *Protection and Enhancement of the Cultural Environment*



Item #5 Approval of amendment of Bylaws to increase the size of the Executive Committee, add a Deputy Director of Program Development and make certain other clarifying changes

BY-LAWS OF THE MASSACHUSETTS CLEAN WATER TRUST

Adopted August 2, 1990

As Amended Through June __, 2023

ARTICLE I THE ACT

The Massachusetts Clean Water Trust (the “Trust”) is created by and exercises powers and responsibilities in accordance with the provisions of Massachusetts General Laws Chapter 29C (the “Enabling Act”). These by-laws have been adopted for the purpose of regulating the affairs of the Trust and the conduct of its business pursuant to Section 3 of the Enabling Act.

ARTICLE II PURPOSES AND POWERS

Section 1. Purposes. The purposes of the Trust are, inter alia, (a) to administer the Water Pollution Abatement Revolving Fund established by Massachusetts General Laws Chapter 29, Section 2L, (b) to implement the clean water state revolving fund program in Massachusetts contemplated by Title VI of the federal Clean Water Act, 33 U.S.C. §§1251-1376, (c) to administer the Drinking Water Revolving Fund established by Massachusetts General Laws Chapter 29, Section 20QQ, and (d) to implement the drinking water state revolving fund program in Massachusetts contemplated by Title XIV of the federal Public Health Service Act (the Safe Drinking Water Act), 42 U.S.C. §§ 300f to 300j-9. The Trust is authorized by the Enabling Act, among other things, to borrow money through the issuance of its revenue bonds and apply the proceeds thereof, together with federal and state capitalization grants and other available funds, to make loans to eligible borrowers to finance the costs of water pollution abatement projects and drinking water projects.

Section 2. Powers. The Trust shall have such powers as are now or may be hereafter granted by law.

ARTICLE III SEAL, LOCATION AND FISCAL YEAR

Section 1. Seal. The official seal of the Trust shall consist of a flat face circular die with the words “Massachusetts Clean Water Trust” cut, embossed or engraved on its outer rim, and in the circle within the figures “1989” and such further words or figures or design, if any, as may be determined by resolution of the Board of Trustees; and upon the adoption of such resolution the Executive Director, as Secretary of the Trust, shall obtain such seal and shall cause an impression thereof to be made on the margin of the page of the records containing this Article of the by-laws.

Section 2. Location. The principal office of the Trust shall be at such place in the City of Boston, Massachusetts, as the Board of Trustees may by resolution from time to time determine.

The Board of Trustees may from time to time establish and maintain an additional office or offices at such place or places as it may by resolution determine.

Section 3. Fiscal Year. The fiscal year of the Trust shall end on June 30 of each calendar year.

ARTICLE IV

MEETINGS OF THE BOARD OF TRUSTEES

Section 1. Regular Meetings. A Regular Meeting of the Board of Trustees for the transaction of any lawful business of the Trust shall be held without call or formal notice, except as provided in Article IV, Section 4 of these by-laws, at the principal office of the Trust, or at such other place as is determined by the Chair after consultation with the members of the Board, on the first Wednesday of each month, provided that if any Regular Meeting of the Board of Trustees falls upon a holiday or a day that, for any other reason, may be inappropriate or inconvenient as a meeting day, the Regular Meeting shall be held upon such other day as may be determined by the Chair after consultation with the members of the Board. Any Regular Meeting of the Board of Trustees may be dispensed with by appropriate resolution adopted by the members of the Board at any prior Regular or Special Meeting of the Board or as may be determined by the Chair with the concurrence in writing filed with the Secretary of the Trust of at least one other Trustee.

Section 2. Special Meetings. Special Meetings of the Board of Trustees may be held at any time and at any place within the Commonwealth when called by the Chair (or the Vice Chair if the Chair is absent or incapacitated) for the purpose of transacting any business. In addition to the notice provided in Article IV, Section 4 of these by-laws, reasonable notice shall be given to each member of the Board by the Executive Director, as Secretary of the Trust, or, in the event of the failure or refusal of the Chair to call a meeting as provided below, by the members of the Board calling the meeting. In any case, notice to a member of the Board shall be deemed sufficient if sent by mail at least 72 hours or by electronic mail or facsimile at least 24 hours, before the time fixed for the meeting, addressed to the member at such member's usual or last known business, residential, or electronic mail address, or facsimile number, or if given to the member in person either by telephone or by handing the member a written notice at least 24 hours before the meeting. Notice of a Special Meeting shall include a listing of topics that the Chair reasonably anticipates will be discussed at the meeting.

Special Meetings may also occur without call or formal notice, except as provided in Article IV, Section 4 of these by-laws, provided all members of the Board are present or those not present shall have waived notice thereof in a writing filed with the records of the meeting either before or within five days after the meeting.

In the event of the failure or refusal of the Chair (or the Vice Chair, as applicable) to call a meeting within two business days after written request therefor by two members of the Board directed to the Chair (or the Vice Chair, as applicable) by mail, electronic mail, or facsimile, a meeting may be called by said two members, whose certificate as to said request to, and the Chair's (or Vice Chair's) failure or refusal to call the meeting, shall constitute conclusive evidence thereof.

Section 3. Annual Meetings. The Regular Meeting of the Board of Trustees scheduled to be held in the month of January in each year shall be the Annual Meeting of the Board for all purposes, including the election of a Vice-Chair, and Executive Committee of the Trust and such other officers and agents as may be elected or appointed for an annual term. If the Regular Meeting date in January falls on a holiday or a day that, for any other reason, may be inappropriate or inconvenient as a meeting day for the Annual Meeting, the Annual Meeting may be held on any other day as may be determined by the Chair after consultation with members of the Board and any action taken at such re-scheduled Annual Meeting shall have the same effect as if taken at an Annual Meeting held on the first Wednesday of January.

Section 4. Public Notice. Public notice of meetings of the Board of Trustees shall be given by the Executive Director, as Secretary of the Trust, in accordance with M.G.L. C.30A, §20. Except in emergencies, the Trust shall file a notice with the Secretary of State and a copy thereof in the public office of the Executive Office for Administration and Finance at least 48 hours (excluding Saturdays, Sundays and legal holidays) prior to the meeting. The notice shall include the date, time, and place of the meeting and a listing of topics that the Chair reasonably anticipates will be discussed at the meeting.

Section 5. Conduct of Meetings. All meetings of the Board of Trustees shall be open to the public and any person shall be permitted to attend any meeting except as otherwise provided in accordance with M.G.L. C.30A, §§20-21. At each meeting of the Board of Trustees, the Chair shall act as Presiding Officer. The Executive Director, as Secretary of the Trust, shall cause to be prepared minutes of all business transacted by the Board of Trustees in accordance with M.G.L. C. 30A, §22.

Section 6. Transaction of Business. At all meetings of the Board of Trustees the following order of business shall be observed so far as is consistent with the purpose or purposes of the meeting:

- (i) call to order,
- (ii) approval of minutes,
- (iii) report of the Executive Committee,
- (iv) new business,
- (v) other business, and
- (vi) adjournment.

However, failure to observe the foregoing order of business shall not affect the validity of any action taken out of such order, unless a member of the Board present at the meeting shall object to departure therefrom.

Section 7. Quorum. Two members of the Board of Trustees shall constitute a quorum, and the affirmative vote of at least two members shall be necessary for any action taken by the

Board. No vacancy in the membership of the Board of Trustees shall impair the right of a quorum to exercise all the rights and perform all the duties of the Board of Trustees.

Section 8. Designees of Members. If any member of the Board of Trustees is unable by reason of absence or disability to attend any Regular, Special, or Annual Meeting of the Board or otherwise to perform such member's duties as a member, such member may, upon compliance with Massachusetts General Laws Chapter 30, Section 6A, designate an officer or employee in such member's department, including without limitation any member of the Executive Committee or other officer of the Trust who is an officer or employee in such department, to perform such duties in case of and during such absence or disability and may, in like manner, revoke such designation at any time.

ARTICLE V

ORGANIZATION OF THE TRUST

Section 1. Organization and Officers. The Trust shall have a Board of Trustees as provided in the Enabling Act that shall have final authority to manage all affairs and business of the Trust and to exercise all powers given to it under Section 3 of the Enabling Act. The Chair of the Board of Trustees shall be the State Treasurer of the Commonwealth as provided in the Enabling Act. The Board of Trustees shall annually elect one of its members as Vice-Chair.

The officers of the Trust shall be a Chair, a Vice-Chair, an Executive Director, a Director of Finance and Administration, a Director of Program Development, a Deputy Director, a Treasurer and a Controller. The Executive Director, the Deputy Director, the Director of Finance and Administration, the Director of Program Development, the Treasurer and the Controller shall be appointed by the Board of Trustees in the manner and for the term of office provided in this Article. The Executive Director shall also serve as Secretary of the Trust, ex officio. The Board of Trustees may also appoint additional positions, each to be an officer or employee of the Commonwealth and otherwise to serve for such term of office as the Board of Trustees shall determine and until a successor, if any, is chosen and qualified.

Section 2. Board of Trustees.

(a) General. The Board of Trustees of the Trust shall consist of members whose appointments, terms and qualifications shall be governed by the provisions of Section 2 of the Enabling Act.

(b) Chair. The Chair shall preside at meetings of the Board of Trustees. In addition to powers and duties expressly provided for elsewhere in these by-laws, the Chair shall have such powers and perform such duties as may from time to time be voted by the Board of Trustees.

(c) Vice-Chair. The Vice-Chair shall have all the powers and discharge all the duties of the Chair upon the absence, inability or incapacity of the Chair. The performance by the Vice-Chair of the duties or the exercise of the power of the Chair shall be presumptive evidence of the absence, inability or incapacity of the Chair, and a certificate by two members of the Board of Trustees as to such absence, inability or incapacity, or by the Executive Director as to such absence for any Regular or Special Meeting, shall be conclusive evidence thereof.

(d) Authority. The Board of Trustees shall have full authority to manage the affairs and business of the Trust, exercise all powers given to it under the Enabling Act and prosecute, amend or repeal by-laws, rules, regulations and procedures concerning the manner in which the business of the Trust may be conducted, and the powers granted to it, so long as consistent with applicable statutes of the Commonwealth. From time to time, subject to the provisions of Section 3(b) of these by-laws, the Board of Trustees may delegate matters relating to the management and operations of the Trust to the Executive Committee or to any of its members.

Section 3. Executive Committee.

(a) General. The Executive Director, the Director of Finance and Administration, the Director of Program Development, the Treasurer and the Deputy Director of Program Development shall compose an Executive Committee with the powers and delegations provided in this Article. The Executive Director shall be the Chair of the Executive Committee.

(b) Authority of Executive Committee. The Executive Committee shall direct the administrative affairs and the general management of the Trust. The Executive Committee shall act to make recommendations for action to the Board of Trustees and may act as the delegate of the Board of Trustees in all matters delegated to the Executive Committee by the Board of Trustees.

(c) Quorum. Three members of the Executive Committee shall constitute a quorum, and the affirmative vote of at least three members of the Executive Committee shall be necessary for any action taken by the Committee. No vacancy in the membership of the Executive Committee shall impair the right of a quorum to exercise the powers and duties of the Executive Committee.

(d) Regular Meetings. The Executive Committee shall attend meetings of the Board of Trustees. The Executive Committee shall meet upon call of the Executive Director from time to time as necessary to discharge its duties. The provisions of Article IV, Section 4 and Section 5 of these by-laws shall apply to meetings of the Executive Committee.

(e) Appointment, Resignation and Removal. The members of the Executive Committee shall be nominated by members of the Board of Trustees as provided in this Section 3(e), in each case subject to confirmation by majority vote of the Board of Trustees. The State Treasurer, as Trustee, shall nominate the Executive Director and the Treasurer of the Trust. The Secretary of the Executive Office for Administration and Finance, as Trustee, shall nominate the Director of Finance and Administration of the Trust. The Commissioner of the Department of Environmental Protection, as Trustee, shall nominate the Director of Program Development and the Deputy Director of Program Development of the Trust. Each person so appointed shall be, and shall be qualified to serve only for so long as such person is, an officer or employee of the Commonwealth. Subject to the foregoing qualification, the members of the Executive Committee shall be appointed at each Annual Meeting of the Board of Trustees and shall serve for a term of office expiring on the date of the next succeeding Annual Meeting and upon the appointment and qualification of a successor thereto. Each member of the Executive Committee shall be eligible for reappointment. A member of the Executive Committee may resign by filing a written

resignation with the Board of Trustees. A resignation shall be effective upon acceptance. A member of the Executive Committee may be removed by majority vote of the Board of Trustees and filing with the Secretary of the Trust of a statement of the facts and circumstances that form the basis for such removal. Upon any vacancy in the office of a member of the Executive Committee, the applicable member of the Board of Trustees shall nominate, and the Board shall appoint, either a successor for the unexpired term of the vacant position or an acting member to serve in such position until a successor shall be appointed.

(f) Executive Director. The Executive Director shall be the chief executive officer of the Trust and shall be responsible for reporting to the Board of Trustees at all regular meetings as to the status of the affairs of the Trust. The Executive Director shall supervise the administrative affairs and general management and operations of the Trust, shall act as Chair of the Executive Committee and shall have such other duties and powers, not inconsistent with these by-laws or the Enabling Act, as may from time to time be authorized by resolution of the Board of Trustees or the Executive Committee. The Executive Director shall prepare or cause to be prepared, for approval by the Board of Trustees, all reports required to be made and filed with executive and legislative offices of the Commonwealth or the federal government pursuant to the Enabling Act or other applicable law or regulation. The Executive Director shall not be a member of the Audit Committee but shall attend meetings of the Audit Committee upon the request of the Chair of the Audit Committee. The Executive Director, as Secretary of the Trust, shall enter and record all resolutions, votes, orders and other proceedings of the Board of Trustees and shall keep a true and accurate record of and give certificates with respect to the proceedings of the Trust; shall be custodian of the seal and the books and records of the Trust; and shall give notice of meetings of the Board of Trustees, the Executive Committee and the Audit Committee pursuant to Massachusetts General Laws Chapter 30A, Section 20.

(g) Director of Finance and Administration. The Director of Finance and Administration shall be responsible for supervising all financial matters relating to the Trust and shall act as liaison with the Executive Office for Administration and Finance of the Commonwealth; and shall perform such other duties and functions as may from time to time be prescribed by resolution of the Board of Trustees.

(h) Director of Program Development. The Director of Program Development shall be responsible for supervising the development and implementation of the Trust's loan programs as contemplated by the Enabling Act; shall coordinate project and loan approvals with the Department of Environmental Protection of the Commonwealth; shall act as liaison with the federal Environmental Protection Agency and with the Department of Environmental Protection and the Executive Office of Environmental Affairs of the Commonwealth; and shall perform such other duties and functions as may from time to time be prescribed by resolution of the Board of Trustees.

(i) Treasurer. The Treasurer shall be responsible, under the supervision of the Executive Director and the Deputy Director, for financial transactions relating to the Trust. The Treasurer shall not be a member of the Audit Committee but shall attend meetings of the Audit Committee upon the request of the Chair of the Audit Committee. Except as may be otherwise provided in the Enabling Act or in any trust agreement, resolution or other agreement under which bonds of the Trust are issued or secured, the Treasurer shall have care and custody of all funds and

securities of the Trust; shall keep records of all receipts and disbursements of the Trust; shall cause all moneys to be deposited in the name and to the credit of the Trust with such depository or depositories as shall be designated by the Board of Trustees; shall supervise loan disbursements and payments and other matters with respect to loan tracking; shall keep accurate records of all matters with respect to bonds of the Trust; shall act as liaison with any trustee or paying agent for bonds of the Trust; and shall perform such other duties and functions as may from time to time be prescribed by resolution of the Board of Trustees.

(j) Deputy Director of Program Development. The Deputy Director of Program Development shall assist the Director of Program Development in performing its duties under the Enabling Act and shall perform such other duties and functions as may from time to time be prescribed by resolution of the Board of Trustees.

Section 4. Deputy Director and Controller.

(a) Appointment. The State Treasurer, as Trustee, shall nominate the Deputy Director and the Controller of the Trust, in each case subject to confirmation by majority vote of the Board of Trustees. Each person so appointed shall be, and shall be qualified to serve only for so long as such person is, an officer or employee of the Commonwealth. The Deputy Director or Controller may resign such office upon written notice to, and may be removed from office by majority vote of, the Board of Trustees.

(b) Deputy Director. The Deputy Director shall assist the Executive Director in supervising the administrative affairs and the general management and operations of the Trust and shall perform such other duties and functions as may from time to time be prescribed by resolution of the Board of Trustees. In the absence of the Executive Director, the Deputy Director shall have the responsibilities, duties and powers of the Executive Director, except as may from time to time be prescribed by resolution of the Board of Trustees.

(c) Controller. The Controller shall be responsible, under the supervision of the Executive Director, for financial control of the Trust and shall be responsible for supervising all accounting and auditing matters relating to the Trust. The Controller shall keep proper and accurate books of account for the Trust. The Controller shall not be a member of the Executive Committee or the Audit Committee but shall attend meetings of the Executive Committee upon the request of the Executive Director and the Audit Committee upon the request of the Chair of the Audit Committee.

Section 5. Audit Committee.

(a) General. There shall be an Audit Committee of the Trust composed of the members of the Board of Trustees. The Chair of the Board of Trustees shall serve as the Chair of the Audit Committee. In addition to powers and duties expressly provided for elsewhere in these by-laws, the Audit Committee shall have such powers and duties as may from time to time be voted by the Board of Trustees.

(b) Designees of Members. Members of the Board of Trustees may, in compliance with Massachusetts General Laws Chapter 30, Section 6A, designate an officer or employee of such member's department to perform the duties of such member as a member of the

Audit Committee and may, in like manner, revoke such designation at any time. Any officer or employee so designated need not be the same officer or employee, if any, designated by the member pursuant to Section 8 of Article IV of these by-laws to perform the duties of the member as a Trustee.

(c) Authority. The Audit Committee shall review all matters relating to the annual audit of the financial statements of the Trust by an independent certified public accountant firm. The powers and duties of the Audit Committee shall include, but not be limited to the following:

- (i) recommendations to the Board of Trustees regarding the appointment and engagement of an independent certified public accountant firm (the “Auditor”), including the establishment of fees to be paid to the Auditor,
- (ii) review and approval of the audit plan proposed by the Auditor,
- (iii) review of all material written communication between the Auditor and Trust management and staff,
- (iv) review of the Trust’s audited financial statements and any reports or other financial information submitted by the Auditor including any findings and recommendations by the Auditor and the Trust management’s response thereto,
- (v) review and evaluation of the performance of the Auditor, and
- (vi) review of any significant disagreement among Trust management and staff and the Auditor in connection with the preparation of the financial statements or internal controls.

Two members of the Audit Committee shall constitute a quorum, and the affirmative vote of at least two members of the Audit Committee shall be necessary for any action taken by the Committee. No vacancy in the membership of the Audit Committee shall impair the right of a quorum to exercise the powers and duties of the Audit Committee.

The Audit Committee shall meet upon the call of the Chair of the Audit Committee from time to time as necessary to discharge its duties. The provisions of Article IV, Section 4 and Section 5 of these by-laws shall apply to meetings of the Audit Committee. The Audit Committee shall report its findings and recommendations to the Board of Trustees annually, or more frequently upon request of the Chair of the Board of Trustees.

Section 6. Other Agents. The Trust may from time to time by resolution of the Board of Trustees engage accounting, management, legal, financial, consulting and other professional services necessary in the judgment of the Board to the conduct of the programs of the Trust.

ARTICLE VI

INDEMNIFICATION

Section 1. Indemnification.

(a) Suits and Other Proceedings Against the Trust. The Trust, to the extent legally permissible, shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the Trust, by reason of the fact that such person is or was a Trustee, officer or agent of the Trust. The Trust's indemnification shall be limited to such person's expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit, or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interests of the Trust, and, with respect to any criminal action or proceedings, had no reasonable cause to believe such person's conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner that the person reasonably believed to be in or not opposed to the best interests of the Trust, and with respect to any criminal action or proceeding had a reasonable cause to believe that such person's conduct was unlawful.

(b) Suits and Other Proceedings By or In the Right of the Trust. The Trust shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Trust to procure a judgment in its favor by reason of the fact that the person is or was a Trustee, officer or agent of the Trust. The Trust's indemnification shall be limited to such person's expenses, including attorneys' fees, actually and reasonably incurred by the person in connection with the defense or settlement of the action or suit if the person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Trust. However, no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of such person's duty to the Trust unless and only to the extent that the court in which the action or suit was brought determines upon application that, despite the adjudication or liability and in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such expenses that the court shall deem proper.

Section 2. Payment. A person entitled to indemnity under this Section, who has been wholly successful, on the merits or otherwise, in the defense of a proceeding shall be entitled to immediate indemnification for such person's reasonable expenses. Any other indemnification under this Article, unless awarded by a court, shall be made by the Trust unless in the specific case either (i) the Board of Trustees, acting by a vote of at least two members, which members shall include no persons who are at the time parties to the proceeding in question, shall reasonably determine that the conduct of the person to be indemnified has fallen outside the standard of conduct for indemnification as set forth above, or (ii) independent legal counsel, selected by the Board of Trustees, shall provide an opinion in writing after reasonable investigation that indemnification is not mandatory in the circumstances because the conduct of the person to be indemnified has fallen outside the standard of conduct for indemnification as set forth in this Article.

Section 3. Advance Payment. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Trust in advance of the final disposition of the action, suit or proceeding as authorized by the Board of Trustees in the specific case upon receipt of an undertaking by or on behalf of the Member, officer or agent to repay such amount unless it shall ultimately be determined that such Member, officer or agent is entitled to be indemnified by the Trust as authorized in this Article.

Section 4. Insurance. The Trust may purchase and maintain insurance on behalf of any person who is or was a Trustee, officer or agent of the Trust against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Trust would have the power to indemnify the person against such liability under the provisions of this Article.

Section 5. Defense. The indemnification herein shall apply only so long as defense of any proceeding as to which indemnification is claimed is made by an attorney approved by the Trust or by an attorney obligated under the terms of a policy of insurance to defend against such proceeding.

Section 6. Miscellaneous. The indemnification provided in this Article shall not be deemed exclusive of or affect any other rights to which any Trustee, officer or agent of the Trust may be entitled. Any indemnification to which a person is entitled under these provisions shall be provided although such person is no longer a Trustee, officer or agent of the Trust. As used in this Article, rights of indemnification inure to the benefit of the heirs, executors and administrators, of such person.

ARTICLE VII

MISCELLANEOUS

Section 1. Execution of Instruments. Unless some other person or persons shall be so authorized pursuant to a resolution of the Board of Trustees, or except as otherwise provided by law or by these by-laws, the Chair shall sign in the name of and on the behalf of the Trust all written instruments to be executed by the Trust. The Executive Director, as Secretary, is authorized, unless a resolution of the Board of Trustees otherwise provides, to attest to the due authorization and execution of any instrument in the name of and on behalf of the Trust.

In the execution on behalf of the Trust of any instrument, document, writing, notice or paper, it shall not be necessary to affix the official seal of the Trust thereon, and any such instrument, document, writing, notice or paper when executed without said seal affixed thereon shall be of the same force and effect and as binding on the Trust as if said official seal had been affixed thereon in each instance.

Section 2. Annual Reports. As provided in the Enabling Act, the Trust shall annually submit to the Governor, the Department of Environmental Protection and the Clerk of the House of Representatives a complete and detailed written report setting forth financial statements relating to the operations, properties, and expenditures of the Trust maintained in accordance with generally accepted accounting principles so far as applicable and audited by an independent certified public accountant firm.

Section 3. Records. Proceedings of meetings of the Board of Trustees shall be recorded in the minute books provided for that purpose and, once adopted by the Board, shall constitute the official record of the Trust.

ARTICLE VIII AMENDMENTS

These by-laws may be amended, added to, altered or repealed in whole or in part by resolution of the Board of Trustees adopted by the affirmative vote of at least two members of the Board at any regular or special meeting of the Board, provided that the notice of such meeting shall specify the subject matter of the proposed amendment, addition, alteration or repeal of the Article or Articles of these by-laws to be affected thereby.



Item #6 Approval of Small Systems Technical Assistance



MASSACHUSETTS CLEAN WATER TRUST MEMORANDUM

TO: The Massachusetts Clean Water Trust Board of Trustees

CC: Sue Perez, Maria Pinaud, Robin McNamara, Ashraf Gabour, Jonathan Maple, John Durgin

FROM: Nathaniel Keenan, Procurement Management Team Chair

SUBJECT: Recommendation for Small System Technical Assistance Providers

DATE: June 7, 2023

Recommendation:

The following constitutes a summary of the process utilized in the recommendation of the procurement management team (the "PMT") in selecting technical service providers for the Massachusetts Clean Water Trust's (the "Trust") Small System Technical Assistance program.

In November 2021, President Biden signed the Infrastructure Investment and Jobs Act of 2021, known as the Bipartisan Infrastructure Law, which provided historical funding for State Revolving Funds. Additionally, the law allowed for a new set-aside program under the Clean Water State Revolving Fund (CWSRF) for providing technical assistance to rural, small, and tribal publicly owned treatment works. The law stipulated that only non-profit organizations are eligible to be providers for this program.

On January 19, 2023, the Trust issued a request for responses (the "RFR") and posted the RFR to the Commonwealth's procurement website, COMMBUYS. The Trust sent emails to 90 contacts representing 40 eligible organizations that could potentially respond as technical service providers.

On April 3, 2023, the PMT consisting of Nate Keenan - Deputy Director of the Trust, Maria Pinaud - Director of the Division of Municipal Services for the Massachusetts Department of Environmental Protection (MassDEP), Robin McNamara - Deputy Director of the Division of Municipal Services for MassDEP, and Ashraf Gabour - Program Manager of the Division of Municipal Services for MassDEP, met to review the Responses. Jonathan Maple - Senior Policy Analyst for the Trust was the Procurement Manager and John Durgin - Associate General Counsel from Treasury's Legal Department, sat in on the discussions as legal advisor.

The RFR was developed to have respondents respond to specific tasks detailed within the scope of work. Those tasks were:

Task 1: Needs Assessment.

Task 2: Workshop on the Massachusetts CWSRF application process.

Task 3: CWSRF Project Evaluation Form Assistance.

Task 4: Preapplication assistance of CWSRF Loan Application.

The procedures for evaluating provider responses were described in the RFR, which set the following criteria for the PMT's review for each task:

- a. Personnel
- b. Experience
- c. References
- d. Treasury Supplier Diversity Program

The RFR asked respondents to describe specific Task related information:

- **Task 1: Needs Assessment.** The RFR requested that the provider describe their approach to conducting a needs assessment for water utility's infrastructure, technical, managerial, and financial capacity.
- **Task 2: Workshop on the Massachusetts CWSRF application process.** The RFR requested that the provider describe their process for developing virtual and in-person workshops and trainings, and how the provider will develop case studies and training materials for the proposed workshops.
- **Task 3: CWSRF Project Evaluation Form Assistance.** The RFR requested that the provider describe their experience with MassDEP's Project Evaluation Form (PEF), and how that will be used to assist applicants with pre-PEF documentation and application completeness reviews.
- **Task 4: Preapplication assistance of CWSRF Loan Application.** The RFR requested that the provider describe their specific experience with CWSRF loan application for planning and construction projects and explain how the organization will assist communities with evaluating the application information and how the provider will give feedback.

Finally, respondents were asked to provide a cost proposal for each individual task.

A total of three (3) potential providers submitted responses to the RFR by the due date of March 14, 2023. Two (2) respondents were deemed as not eligible due to their not being non-profit organizations.

RCAP Solutions (RSOL) was the only eligible provider to respond. RSOL's response was limited to Tasks 1, 3 and 4 from the scope of work. This organization has experience providing technical assistance to small and rural communities in the Commonwealth. RSOL demonstrated the understanding that small and rural systems endure the financial and operational challenges with providing wastewater treatment services that meet Massachusetts and US Environmental Protection Agency (EPA) standards.

The PMT evaluated that the staff and organization have the experience to provide the necessary assistance as noted in the scope of service for Task 1. Their response detailed a workflow process that is consistent with the scope of work. Further the PMT noted that the organization had provided 46 examples of assistance to community projects within the last three (3) years.

The PMT noted RSOL has more experience working with USDA Rural Development programs, but with assistance from MassDEP, the provider will be able to assist communities with both Tasks 3 and 4 of the scope of work. Further, the Cost Proposal submitted by RCAP was in line with similar programs developed by MassDEP such as the Clean Watershed Needs Survey.

The PMT recommends that RSOL be approved as a technical service provider for the CWSRF Small and Disadvantaged Technical assistance program for Tasks 1, 3 and 4.

The PMT also recommends that the Trust explore reposting the RFR to accept applications on a rolling basis to add more technical service provider for Tasks 1 through 4. If no eligible responses are received for Task 2, then MassDEP and Trust will evaluate alternative contracting solutions to ensure this task is provided as part of the CWSRF's larger technical assistance program.

Deborah B. Goldberg, Chair
Susan Perez, Executive Director

Request for Responses (RFR):

Clean Water State Revolving Fund (CWSRF) Technical Assistance Providers

Date Posted: Thursday, January 19, 2023

Responses Due: Tuesday, March 14, 2023

Contact Person: Jonathan Maple, Procurement Manager – jmaple@tre.state.ma.us

1. **Regarding this Request for Responses.** The Massachusetts Clean Water Trust, ("Trust") is issuing this Request for Responses – Technical Assistance Providers ("RFR") to establish a contract(s) with technical service providers ("Providers") to assist small, rural, and tribal publicly owned treatment works, particularly in disadvantaged communities, with participating in the Clean Water State Revolving Fund loan program ("CWSRF"). The Providers will be nonprofit organizations (33 U.S. Code § 1254(w)), or State, regional, interstate, or municipal entities.

Providers wishing to be considered for this program may apply for multiple tasks or a single task listed below and detailed in Section 5. Providers are not guaranteed to be selected to provide services. The Trust reserves the right to exclude or remove any provider from the technical assistance program at any time.

This RFR will establish contracts for the following tasks:

Task 1: Needs Assessment.

Task 2: Workshop on the Massachusetts CWSRF application process.

Task 3: CWSRF Project Evaluation Form Assistance.

Task 4: Preapplication assistance of CWSRF Loan Application.

Further, this RFR will assist the Trust and Massachusetts Department of Environmental Protection's Division of Municipal Services ("MassDEP") with establishing a fixed reimbursement rate for services related to Tasks 1, 3, and 4.

2. **Regarding the Clean Water State Revolving Fund (CWSRF).** The CWSRF was created by the 1987 amendments to the Clean Water Act as a financial assistance program for a wide range of water infrastructure projects. The program is a partnership between the Environmental Protection Agency ("EPA") and the Commonwealth of Massachusetts. The CWSRF is managed jointly by the Trust and MassDEP. For CWSRF projects, the program emphasizes watershed management priorities, stormwater management, green infrastructure and encourages communities to undertake projects with meaningful water quality and public health benefits.

For a detailed description of the Trust and its programs and other information relative to the Trust, see the Trust's website at <https://www.mass.gov/orgs/the-massachusetts-clean-water-trust>.

For a detailed description of the MassDEP and the CWSRF see MassDEP's website at <https://www.mass.gov/state-revolving-fund-srf-loan-program>.

3. **Regarding the Technical Assistance Program Contract.** Technical Assistance funding comes from the CWSRF Set-Aside allowed under the annual capital grant from EPA and will be subject to the relevant federal requirements. Providers will be eligible to provide services for the contracted technical assistance for a period of 3 years, with an optional one-year extension provided at the sole discretion of the Trust.

Any contract that results from this RFR shall be comprised of this RFR, the provider's response to this RFR, all applicable Exhibits and Attachments, the Cost Proposal and any Best and Final Offer accepted by the Trust, a completed and signed Commonwealth Standard Contract Form, and the Commonwealth Terms and Conditions and, only if necessary to address matters not covered in the above documents, an engagement letter.

A list of communities where eligible utilities can be located is attached to COMMBUYS.

4. **Schedule (all dates are subject to change)**

Action	Date and Time
Issuance of RFR:	Thursday, January 19, 2023
Question Submission Deadline:	Friday, February 3, 2023, by 2 PM EST
Question Response Date:	Thursday, February 9, 2023
RFR Response Deadline:	Tuesday, March 14, 2023, by 2 PM EST
Potential Oral Interviews:	March 20-24, 2023
Approximate Selection Date:	Wednesday, April 5, 2023

5. **Scope of Services.**

- a. **Task 1: Needs Assessment.** A qualified provider will help owners/operators of small systems, defined as a wastewater treatment system that serves a population of 10,000 or fewer people and an average daily wastewater flow of less than one million gallons, to conduct an assessment of the wastewater and/or stormwater infrastructure, for both current and future needs. The assessment may consider physical infrastructure, along with the ongoing technical, managerial, and financial capacity of the system. Meeting with government officials, community representatives, and residents, may be included in the assessment. Expected deliverables include the following activities:

- i. Conduct an assessment of the infrastructure, along with the technical, managerial, and financial capacity of system, identifying both current and future needs.
- ii. Based on the needs identified, meet with stakeholders to develop a plan to address the needs.
- iii. The results of this assessment and stakeholder meetings shall be documented and made available to the community, the Massachusetts Clean Water Trust, and MassDEP, in the form of a report.

- b. **Task 2: Workshop on the Massachusetts CWSRF application process.** A qualified provider will hold workshops to explain the SRF application process utilizing case studies

to detail the process and highlight the benefits of financing through the CWSRF by highlighting the available subsidies available to the community. Expected deliverables include the following activities:

- i. Conduct outreach to small, rural, and tribal publicly owned treatment works communities to:
 1. Announce the availability of technical assistance and workshops to explain the SRF application process and the benefits of financing through CWSRF; and,
 2. Announce the availability of technical assistance to conduct needs assessments, CWSRF Project Evaluation Form (“PEF”) completion assistance, and CWSRF loan preapplication assistance.
 - ii. Prepare materials for outreach and distribute to a list of small and rural communities provided by MassDEP.
 - iii. Prepare materials and deliver presentation for the workshop, tailored to the community/potential applicant. The presentation should feature case studies and explain the SRF program requirements and timelines.
 - iv. Conduct in-person workshops with an option to attend virtually included.
 - v. Record presentation for inclusion on Trust and MassDEP webpages.
 - vi. Follow-up with the community after workshop is held to answer any questions
- c. **Task 3: CWSRF Project Evaluation Form (“PEF”) Assistance.** A qualified provider will provide technical assistance in the completion of a CWSRF PEF for the purpose of applying for project specific SRF financing. This includes applications for the asset management planning program, all other planning projects, and water infrastructure construction projects. Expected deliverables include the following activities:
- i. Assist applicant with the CWSRF PEF for all project types.
 - ii. Provide guidance on pre-PEF documentation review and data gathering and project definition.
 - iii. Perform completeness review of PEF prior to submittal.
- d. **Task 4: Preapplication assistance of CWSRF Loan Application.** A qualified provider will provide preapplication assistance with the preparation of CWSRF Loan Applications. This will consist of performing an administrative completeness review of draft applications, including plans and specifications pertinent to the project, to ensure all required documentation and permits are in place. Expected deliverables include the following activities:
- i. Assist applicant with CWSRF loan application for planning and construction projects.
 - ii. Provide preapplication assistance and review with administrative completeness, plans and specifications pertinent to the project, and documentation and permits that are necessary for the project.

6. **Questions Concerning the RFR.** Providers that have questions related to this RFR must email their questions to the Contact Person Jonathan Maple (jmaple@tre.state.ma.us) no later than the Question Submission Deadline date, **Friday, February 3, 2023, by 2 PM EST**. Answers will be posted on COMMBUYS by the Question Response date Thursday, February 9, 2023.
7. **Communications.** Providers that intend to respond to this RFR are prohibited from contacting any employee of the Trust, the Office of the State Treasurer, or the Massachusetts Department of Environmental Protection (MassDEP) regarding any matters related to this RFR. Providers must only contact the Contact Person, from the date of this RFR until the procurement process has concluded. Any questions, technical inquiries, or other communications related to this RFR are required to be addressed only to the Contact Person. Failure to observe this prohibition shall be grounds for disqualification.
8. **COMMBUYS.** COMMBUYS is the official source of information for this RFR and is publicly accessible at no charge at www.COMMBUYS.com. Information contained in this document and on COMMBUYS, including file attachments and information contained in the related Questions and Answers (Q&A), are all components of the RFR, as referenced in COMMBUYS, and are incorporated into the RFR and any resulting contracts. Providers are solely responsible for obtaining all information distributed for this RFR via COMMBUYS and the Trust accepts no liability and will provide no accommodation to providers that fail to check for amended RFRs and submit inadequate or incorrect responses. It is each provider's responsibility to check COMMBUYS for any amendments, addenda, or modifications to this RFR, and any Q&A records related to this RFR.
9. **Public Record.** All responses and information submitted in response to this RFR are subject to the Massachusetts Public Records Law, Massachusetts General Laws (“MGL”), Chapter 66, §10 and MGL, Chapter 4, §7, Clause Twenty-Six. Any statement in a response that is inconsistent with the foregoing statutes is hereby rejected and will be disregarded.
10. **Response Submission.** Providers must email an electronic copy of their response and cost proposal as a PDF file to the Contact Person. The emailed response must arrive no later than **2 PM EST on the RFR Response Deadline, Tuesday, March 14, 2023**.

All terms, conditions, requirements, and procedures included in this RFR must be met for a response to be qualified as responsive. A response that fails to meet any material term, condition, requirement, or procedure of this RFR may be deemed unresponsive and disqualified. The Trust reserves the right (i) to waive or permit cure of non-material errors or omissions, (ii) to modify, amend or cancel the terms of the RFR at any time, or (iii) to reject any or all bid proposals received in response to this RFR.

A provider or a subcontractor that is currently subject to any Commonwealth or federal debarment order or determination, shall not be considered for evaluation by the Trust.

11. **Contents of the Response.** To be considered complete, the Response Package must include the following:
 - a. **Cover Letter.** Limit your response to two (2) pages. A cover letter that is signed by the authorized provider signatory who:
 - i. Is authorized to bind the provider to the terms of this RFR and the terms and obligations under any contract that results from this RFR.

- ii. Is the person who will perform the services, have primary responsibility for the engagement, and include any relevant introductory information.
 - iii. Identifies which Task(s) your proposal is addressing refer to Tasks 1-4 in Section 5. Scope of Services.
 - iv. If your services are geographically limited, identifies the geographic area and the list of municipalities that can be served. Please note the full list of municipalities as an attachment to the response will not count against the established page limit.
- b. Answers to Questions.** A response to each question or requirement listed in Section 13. Please note that providers are only required to respond to the specific questions in Section 13d-g that correspond to the Tasks your proposal is addressing as identified in Section 11a.
- c. Mandatory Attachments.** The following mandatory attachments are available on COMMBUYS or as live links in the Appendices to this RFR.

Appendix	Mandatory Attachments
A	Cost Proposal
B	Commonwealth Terms and Conditions
C	Commonwealth Standard Contract Form
D	Massachusetts Substitute W-9 Form
E	Contractor Authorized Signatory Listing
F	Tax Compliance Certification
G	Treasury Supplier Diversity Program
H	Invest in Massachusetts Plan
I	Certificate of Non-Collusion
J	Electronic Funds Transfer Form
K	Fidelity Bond or Certificate of Liability Insurance

- 12. Procurement Management Team.** Staff from the Trust and MassDEP's Division of Municipal Services will comprise the Procurement Management Team ("PMT") and will evaluate the Responses. The PMT will make its recommendation to the Board of Trustees for approval.
- 13. Response Questions.** Please respond to the following questions and ensure that responses adhere to the stated page limits. The page limit only refers to the document being described and not the requested supporting documents or attachments that may be included as appendices.

- a. Personnel (No more than 4 Pages).** Please identify key personnel who will be involved in performing the activities detailed in your proposal. Identify the principal, program manager or member of the Provider who will have primary responsibility for this service. In addition, identify the program manager, and appropriate staff who will be a part of your team.

Please provide a brief description of each individual's relevant experience in the tasks identified in the Provider's Cover Letter – see Section 11a. This information should include education and experience working with municipalities, districts or other public entities, technical skills, and the role that each individual will serve and their title. **If relying on subcontractors, then ensure the subcontractor(s) information is included – if known.** If the contractor is currently unknown, then please ensure the experience section of 13a

identifies your process for hiring and managing contractors. Note, that personnel or sub-contractors included after the proposal are subject to a review by MassDEP and the Trust.

Please identify your preferred point of contact, their phone number, and email address. Note this contact information may be made public on the Trust's or MassDEP's website or supporting materials. Resumes may be included as an attachment to the response and will not count against the established page limit.

- b. Experience (No more than 3 pages).** Please provide a list of projects for municipalities or other public entities, preferably in Massachusetts, for similar activities or related work since January 1, 2018, for which the Provider served as a consultant, vendor, or contractor, and in which staff members identified above participated. In addition to the list mentioned above, please highlight and summarize (1 paragraph minimum each) three (3) relevant projects the Provider has completed related to asset management planning. Please note the areas of Massachusetts in which your firm is active. If relying on contractors, then include their relevant experience.
 - i. If relying on subcontractors for your proposal,** then please identify your organization's experience with hiring and managing contractors. If your organization has a formal policy or procedures for contracting sub-contractors or procuring services, then please include those as appendices to your response.
- c. References (No more than 1 page).** The Trust requires three (3) references from public entities pertinent to the task(s) identified in the Provider's Cover Letter – see Section 11a, that will be performed under this RFR. If the Provider does not have specific relevant experience, then please provide references for entities where the Provider has completed comparable assistance work. If relying on contractors, then ensure contractor references are included.
- d. Treasury Supplier Diversity Program:** The Treasury is committed to developing and strengthening Minority and Women-Owned Business Enterprises (M/WBEs) and expanding equal opportunity in the primary and any secondary industries affected by this RFR. Consequently, the Treasury requires all responsive Bidders to submit a Treasury Supplier Diversity Program Plan Form (TSDP Plan Form) with its response. Bidders that clearly demonstrate the intent to further the development of M/WBEs or the existence of a relationship, which does further these goals, will receive favorable consideration from the PMT.
- e. Task 1: Needs Assessment (Optional, no more than 2 page).** Describe the provider's approach to conducting a needs assessment for water utility's infrastructure, technical, managerial, and financial capacity. Include how the Provider identifies needs and develops plans to assist stakeholders with addressing deficits. Describe the time frame and milestones of the process. Utilize the attached List of Eligible Communities in COMMBUYS to identify potential systems that may be assisted with provider services.
- f. Task 2: Workshop on the Massachusetts CWSRF application process (Optional, no more than 2 page).** Describe the providers process for developing virtual and in-person workshops and trainings. Further describe how the Provider will develop case studies and training materials for the proposed workshops. Please explain how the provider will conduct outreach and develop marketing materials related to trainings. Finally, please

describe how the provider will conduct follow ups and responses to training and post-training questions.

- g. Task 3: CWSRF Project Evaluation Form Assistance (Optional, no more than 2 page).** Describe the Provider's specific experience with MassDEP's PEFs, and how that will be used to assist applicants with pre-PEF documentation and application completeness reviews. Further describe the Provider's proposed process for assisting communities with project evaluation forms and how the provider plans to provide feedback to the community. Describe the time frame and milestones of the process. Utilize the attached List of Eligible Communities in COMMBUYS to identify potential systems that may be assisted with provider services
- h. Task 4: Preapplication assistance of CWSRF Loan Application (Optional, no more than 2 page).** Describe the Provider's specific experience with CWSRF loan application for planning and construction projects. Explain how your organization will assist communities with evaluating the application information and how the provider will give feedback. Describe the time frame and milestones of the process. Utilize the attached List of Eligible Communities in COMMBUYS to identify potential systems that may be assisted with provider services.
- i. Cost proposal.** Please see Appendix A for the formal Cost Proposal form. The Trust and MassDEP are expecting to utilize the Cost Proposal data to develop a reimbursement fee structure for Tasks 1, 3 and 4. Providers should note that the development of a fixed rate for these tasks will be identified and presented to all respondents. This may occur after the formal acceptance of responses but will be included with an engagement letter to providers. Applicants may provide a written response to be included with the cost proposal if additional information would be helpful for the PMT. No more than one page per eligible task.

14. RFR Evaluation Process. Proposals from providers will be evaluated based on the following criteria:

- a. Provider Experience.** Demonstrate that the Provider has experienced personnel who have provided these services and show a detailed understanding of the subject matter. Providers show clear understanding of relevant tasks.
- b. Project Management.** Defines clear process for developing relevant task activities listed within the scope of work. Demonstrates relevant experience with task activities with verifiable examples.
- c. Overall Ability.** A response should demonstrate the overall ability of the Provider to provide experienced and reliable engineering, assessment and educational services to provider/owners. If subcontractors are to be employed, identification of the services or expertise that will be sought must be included. If known, the name of the subcontractors, their credentials, and references, should also be included.
- d. Cost.** Provides a comprehensive Cost Proposal based on relevant task that realistically shows cost of proposed activities.
- e. Task 1: Needs Assessment:** Demonstrates professional experience with design, construction, or operation of wastewater and stormwater infrastructure, including evaluating physical infrastructure, along with the ongoing operational, technical,

managerial, and financial capacity of the system. Details professional experience documenting, and reporting water infrastructure needs assessment findings or engineering reports. Displays professional experience working with stakeholders to develop proposals that address the needs of the water infrastructure while considering the concerns of the stakeholders.

- f. **Task 2: Workshop on the Massachusetts CWSRF application process:** Demonstrate professional experience providing training on subjects unfamiliar to the audience, experience providing outreach to a cross section of stakeholders including the public and developing technical training and outreach materials. Details professional experience developing customized workshops, featuring case studies tailored to the audience and providing support and follow-up with workshop participants
- g. **Task 3: CWSRF Project Evaluation Form Assistance:** Demonstrate professional experience with providing technical assistance to municipalities or wastewater treatment operators, experience with the completion of CWSRF Project Evaluation Forms and detailed experience with wastewater/stormwater project documentation
- h. **Task 4: Preapplication assistance of CWSRF Loan Application:** Demonstrate professional experience providing technical assistance to municipalities or wastewater treatment operators. Proven professional experience with the completion of SRF Loan Applications, and experience with wastewater/stormwater technical/engineering reports, permitting, and SRF project documentation

The Trust reserves the right to ask all providers for additional information that may be deemed relevant to the evaluation and/or to ask certain or all providers responding to this solicitation to make an oral presentation.

The PMT will make a recommendation of providers' selection to the Trust's Board of Trustees based on the evaluation of the responses using the above criteria. The PMT may select the responses that demonstrate the "Best Value" overall, including proposed alternatives that will achieve the procurement goals of the Trust. The Trust and the selected provider(s) may negotiate a change in any element of contract performance or cost identified in the RFR or the selected provider response which results in lower costs or in a more cost effective or better value than was presented in the selected provider(s) original response.

The Trust reserves the right to consider other factors, including information that may not be provided in the response if it deems the information relevant to the evaluation and selection process. The Trust reserves the right, but is not obligated, to waive or modify any irregularities in the responses received. The Board will have final authority on the selection of the provider under this RFR.



***Item #7 Use of ARPA Funds to Provide
Additional Subsidies in the Form of Principal
Forgiveness for 2021 Projects in Nitrogen
Sensitive Areas***

Massachusetts Clean Water Trust
Final Loan Forgiveness for the Year 2021 Federal Grant

Schedule 1 - Clean Water SRF - Loan Forgiveness

Loan Number	Borrower	Loan Amount	Total Loan Forgiveness	Project Title
CWP-21-42	Barnstable	2,761,225	384,300	Wastewater Pump Station Improvements Project
CWP-21-49	Barnstable	18,814,176	3,442,994	Route 28 East Sewer Expansion Project
CWP-21-49-A	Barnstable	1,112,000	203,496	Route 28 East Sewer Expansion Project
CW-21-46	Chatham	2,818,173	396,258	Chatham Queen Anne Pumping Station Upgrade 2021
CW-21-38	Chatham	3,598,348	539,752	Chatham Stormwater Improvement Projects 2021
CW-21-33	Dukes County	10,971,561	940,605	Martha's Vineyard Airport WWTF Upgrades
CWP-21-16	Mashpee	47,455,300	8,684,320	Mashpee Water Resource Recovery Facility (WRRF) and
CWP-21-16-A	Mashpee	6,502,700	1,189,994	Collection System
Total		\$ 94,033,483	\$ 15,781,719	



Item #8 (*No Reference Document*)



***Project Descriptions* (for Items #9 through #14)**

Project Descriptions for June 7, 2023

Board of Trustees Meeting

Lead Service Line Planning Program Commitments

Adams Fire District DW-23-15

The goal is to complete a water service line material inventory of both the public and private side of the water service by October 16, 2024, to meet the requirements of the LCRR.

Cherry Valley and Rochdale Water District DW-23-53

The work of this project consists of 2 phases. The first phase consists of reviewing existing service material records database, collection of available records, updating the existing database, creating a list of unknown service line materials, and creating a list of service categorized as lead, galvanized requiring replacement, or lead status unknown. The second phase consists of up to 600 letters with self-identifying LSL document to customers with unknown service line materials, establish a dedicated email and phone number through T&H's system, update inventory database on responses, perform up to 300 home inspections for service line materials verification, and provide GIS shapefile with updated service line materials.

Chicopee DW-23-44

This project includes the evaluation and development of a Lead Service Line (LSL) replacement plan for utility and customer side service line materials connected to the Chicopee water distribution system in order to meet the 2021 Lead and Copper Rule Revision (LCRR) issued by the EPA. The project is divided into two phases: Phase 1- Initial Water Service Inventory Development and Phase 2- Lead Service Line Replacement Plan. Tasks for Phase I include a review of current water distribution data, field investigations to verify service line materials, and the finalization of an initial inventory. During Phase 2, Engineers will work closely with the City to produce a LSL replacement plan. The plan will include a procedure for conducting replacements and a funding strategy.

Dedham-Westwood Water District DW-23-51

Dedham-Westwood Water District is creating an electronic water service line inventory that meets the requirements to have it publicly available and plan for future lead service line replacement efforts. The available records will be inventoried and then added to the District's existing GIS. A GIS solution will be created that will allow DWWD to track and monitor water service materials throughout the Westwood & Dedham systems. Currently, DWWD does not have any records of privately-owned water service lines. This project will collect the information by reviewing public records, utilizing the MA-LSLI, and performing house inspections. All information gathered will be added to the GIS inventory solution.

Everett DW-23-46

The work of this project generally consists of updating the City's service line ArcGIS shapefile with data from the City's Excel service line inventory file, updating the database with information collected and service lines replaced during the 2019 through 2022 lead service line replacement projects, updating existing database with additional info included in MassDEP Service Line Inventory Template (Aug. 15, 2022), and creating assumptions for approximately 2,800 locations with unknown service line materials. Also, utilizing the LSL inventory to identify approximately 200 lead services to be replaced, performing site visits at services to be replaced, prepare design specifications and Contract Documents for the replacement of LSLs, and the bidding/awarding of the construction contract.

Fairhaven DW-23-50

The work of this project generally consists of preparing a comprehensive Lead Service Line Inventory and database for both the public and private portions of water services that will be made publicly available. The database will be built using available digital and paper records, MassGIS database, assessor's database, and based on information included in the EPA's Service Line Inventory Guidance. A list of addresses with unknown service line materials will be created with associated high, medium, and low probability of lead rankings. Schedule and conduct up to 150 home inspections focusing on locations determined to have a high probability of lead.

Falmouth DW-23-47

The work of this project generally consists of the collection of available records for both utility and privately owned sides of water service lines, development of a lead service line inventory database (which will be made available to the public), preparing a list of unknown service line materials, conducting home inspections of up to 30 properties to confirm material on either side of the meter, and providing a list of service lines categorized as lead, galvanized requiring replacement, or lead status unknown to the Town so that the property owners can be notified after completing the inventory.

Hadley DW-23-43

The purpose of this project is to complete a Lead Service Line (LSL) Inventory and Replacement Plan. Key tasks are to: perform data collection and preliminary screening analysis to identify high probability LSLs; create a preliminary inventory based on collected data; expand the inventory through crowd sourced data collection; create a shareable web map of the inventory and a progress tracking dashboard; and identify data gaps and generate a preliminary lead service line replacement plan.

Lunenburg Water District DW-23-41

Lunenburg Water District (LWD) has reviewed their records for service lines and found significant data gaps. The District requires financial assistance to complete a multi-pronged approach to gathering missing data including:

- Public facing website to educate & communicate w/ customers re: the program goals and process
- Customer survey - QR code based survey for residents to send pics of material at meter to LWD
- Build Service Line Material Inventory from records, survey results, field program in GIS w/ dashboards (compatible with DEP template)
- Field test pit program - dig up to 100 service boxes for representative information for public/private sides to fill in data gaps from all efforts listed above. DBE to provide field program oversight. (SDE Engineering)
- Summarize results in replacement plan and submit inventory to DEP

Maynard DW-23-55

This project includes establishing a formal inventory of existing water service lines and materials, including water service record review and database creation, field work to identify service line materials, verification of unknown service line materials, desktop inventory database reconciliation and field verification data population, and LCR inventory memorandum.

Somerset DW-23-49

This project consists of data collection and development of a lead service line inventory. This information will be used to prepare a removal prioritization list and a lead service removal action plan.

Turners Falls Fire District DW-23-45

The work of this project generally consists of collecting available records of service lines, creation of a database of available information collected per service, creation of a list of unknown service line materials and ranking for verification that indicates high, medium, and low probability of lead, creation of a list of services categorized as lead, galvanized requiring replacement, or lead status unknown, and the preparation of a plan to aid the water department with confirming service line material for services with unknown materials.

Westminster DW-23-48

The Town intends to inventory water service lines from the municipal water system to the water meter in compliance with Mass DEP inventory spreadsheet and reporting file requirements. The purpose of this project and program is to identify the location and prioritize replacement of known lead service lines which could be contributing to lead concentrations in the distribution system. The Town of Westminster has approximately 1,300 water service connections based on recent ASR data.

Clean Water Commitment

Framingham CW-22-35

The City of Framingham seeks the replacement of the existing Worcester Road Sewer Pump Station. Constructed in 1966, the existing pump station is reaching the end of its useful life. The pump station consists of two electric pumps and one natural gas fired pump that is manually operated when required. Resiliency will be provided in the new pump station by including three electric pumps (two duty and one standby) and a diesel emergency generator that will automatically provide electricity during any power outage.

Drinking Water Commitment

Norwell DW-23-52

Addition of Granular Activated Carbon (GAC) to the South Street Treatment Facility for PFAS treatment. The proposed treatment concept includes two (2) treatment trains, each consisting of two (2) pressure vessels containing GAC media configured in a lead/lag sequence. This configuration utilizes the second vessel as a polishing adsorber, allowing the first vessel to be monitored for break-through of contaminants. When break through occurs, the media within the lead vessel is replaced, and the sequential order of the adsorber vessels switched the former lag vessel becomes the lead vessel and the former lead vessel, with fresh GAC, becomes the lag vessel.

Lead Service Line Planning Program Agreements

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Westminster DWL-23-48

The Town intends to inventory water service lines from the municipal water system to the water meter in compliance with Mass DEP inventory spreadsheet and reporting file requirements. The purpose of this project and program is to identify the location and prioritize replacement of known lead service lines which could be contributing to lead concentrations in the distribution system. The Town of Westminster has approximately 1,300 water service connections based on recent ASR data.

Clean Water Agreements**Brockton CWP-22-34**

The City of Brockton's sewer system rehabilitation project will include up to 20 miles of preparatory cleaning of existing sewer pipe, internal television inspection, cured-in-place (CIP) sewer pipe lining, and rehabilitation of manholes. Sewer reaches and sewer manholes selected for this project have been identified based on the 2017 sewer flow monitoring program and will be prioritized as part of the ongoing SSES Program Phase 2.

Framingham CWP-22-35

The City of Framingham seeks the replacement of the existing Worcester Road Sewer Pump Station. Constructed in 1966, the existing pump station is reaching the end of its useful life. The pump station consists of two electric pumps and one natural gas fired pump that is manually operated when required. Resiliency will be provided in the new pump station by including three electric pumps (two duty and one standby) and a diesel emergency generator that will automatically provide electricity during any power outage.

Franklin CW-22-31

The Town of Franklin seeks to rehabilitate, relocate, and replace the 100-year-old Beaver Street Interceptor. This project includes upsizing 900 LF of sewer, cured-in-place lining 6, 400 LF of sewer, installing 2, 500 LF of new gravity sewer, and construction of a new Beaver Street pump station and associated force main. This will increase capacity within the BSI and prevent future sanitary sewer overflows into the Mine Brook.

Littleton CW-22-57

The Town of Littleton Sewer System Expansion project includes several improvements to the Town's wastewater infrastructure. The Project includes expanding the existing collection system to service the Littleton Common Area, upgrading an existing pumping station, installing two new pumping stations, and a new centralized Water Resource Recovery Facility that will treat current and future wastewater flows. The construction of these projects will reduce the number of on-site septic systems, thus reducing nutrient and bacteria levels in the Town's surface and groundwater while supporting the Town's economic development. These projects will address needs identified in the Town's Wastewater Needs Assessment.

Lynn Water and Sewer Commission CWP-22-69

The Lynn Water and Sewer Commission's project involves sewer separation of approximately 260 acres in an urban setting in the western side of the City. To facilitate discharge of the stormwater, a new 100 MGD pump station and 54" force main, which discharges to Lynn Harbor, will also be installed. The project consists of five (5) phases of construction. Construction of Phases 1 & 2 are underway.

New Bedford CW-22-73

The City of New Bedford seeks to facilitate progress of the IDDE program, to meet requirements of the 2017 MS4 Permit, and executed AO dated December 16, 2019. As part of this third phase of the IDDE program, the City intends to conduct follow-up investigations in the CSO 003, CSO 026 and CSO 027 areas where past field investigations were inconclusive, as well as any necessary follow-up in the CSO 041, CSO 016, DP 133, DP 122, DP 201, CSO 023, CSO 024, and DP 200 areas. Illicit discharges identified during the upstream investigations will be removed from the drainage system under a follow up project.

Taunton CWP-22-53

The City of Taunton's project consists of improvements and repairs to the existing sewer and stormwater systems. This is a continuation of work begun during previous projects and is primarily directed at removing I/I from the system.

Taunton CWP-22-53-A

The City of Taunton's project consists of improvements and repairs to the existing sewer and stormwater systems. This is a continuation of work begun during previous projects and is primarily directed at removing I/I from the system.

Taunton CWP-22-54

The City of Taunton's project will upgrade several pump stations in the Taunton collection system. Included will be one full-scale pump station replacement and several generator replacements and instrumentation and control updates.

Drinking Water Agreements

East Brookfield DWP-22-49

The Town of East Brookfield Water Improvements Project includes a water storage tank replacement and AC pipe replacement.

Leicester Water Supply District DWP-22-38

The Town of Leicester seeks to construct an interconnection between the Leicester Water Supply District and Worcester water systems including a metered pump station and about 2 miles of water main in accordance with an Administrative Consent Order. Without the interconnection, water treatment improvements are required to continue using the District's supplies located in Paxton, to meet water quality standards and regulations and protect public health. The size and scope of the treatment improvements required to continue using these supplies makes the purchase of water from Worcester a viable alternative to maintain the fiscal sustainability of the District and protect public health.

North Attleborough DWP-22-20

The Town of North Attleborough's proposed project involves constructing a PFAS removal treatment system including granular activated carbon) adsorption installed in pressure vessels at the McKeon WTF site. The proposed system includes pressure vessels, media, and appurtenant piping and valves. The treatment process will include piping modifications, construction of a new pre-engineered building with associated electrical, lighting, and HVAC systems. Instrumentation and control systems upgrades will be included to fully integrate the new system into the existing treatment process, currently a greensand media iron and manganese removal system and chemical addition. Concurrently, a sodium fluoride chemical feed system will be added/coordinated with the PFAS treatment system.

Townsend DWP-22-26

The Town of Townsend seeks the construction of a new Water Treatment Plant and raw water transmission main to treat PFAS-contaminated water.

Yarmouth DWP-23-18

This Project will install a package drinking water treatment system to remove PFAS to below the maximum contaminant limit for two of Yarmouth's wells. Treatment for the wells is necessary for Yarmouth to provide adequate supply capacity and redundancy within the drinking water system to meet the variable summertime high demands and restore the 864,000 gallons per day of capacity. The proposed treatment solutions will include greensand pre-filters for removal of iron and manganese and ion exchange system to adsorb and remove PFAS, along with associated site work to accept the treatment units.