

**UNITED STATES
DEPARTMENT OF TRANSPORTATION**

TIFIA LOAN AGREEMENT

For Up to \$537,484,439

With

SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION

For the

**MID-COAST CORRIDOR TRANSIT PROJECT
(TIFIA – 20171007A)**

Dated as of June 27, 2017

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TIFIA LOAN AGREEMENT

This **TIFIA LOAN AGREEMENT** (this “**Agreement**”), dated as of the Effective Date, is by and between the **SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION**, a public agency created under the laws of California (the “**State**”), with an address of 401 B Street, Suite 800, San Diego, California 92101 (the “**Borrower**”), and the **UNITED STATES DEPARTMENT OF TRANSPORTATION**, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau (the “**Executive Director**”), with an address of 1200 New Jersey Avenue, S.E., Washington, D.C. 20590 (the “**TIFIA Lender**”).

RECITALS:

WHEREAS, the Congress of the United States of America (the “Congress”) has found that a well-developed system of transportation infrastructure is critical to the economic well-being, health and welfare of the people of the United States of America and, in furtherance thereof, has enacted the Transportation Infrastructure Finance and Innovation Act of 1998 (“TIFIA”), § 1501 et seq. of Public Law 105-178 (as amended by Public Law 105-206, Public Law 109-59, Public Law 112-141, and Public Law 114-94) (the “Act”), codified as 23 U.S.C. §§ 601-609; and

WHEREAS, Section 603 of the Act authorizes the TIFIA Lender to enter into agreements with one or more obligors to make secured loans; and

WHEREAS, the Borrower has requested that the TIFIA Lender make the TIFIA Loan (as defined herein) in a principal amount not to exceed \$537,484,439 (excluding interest that is capitalized in accordance with the terms hereof) to be used to pay a portion of the Eligible Project Costs (as defined herein) related to the Project (as defined herein) pursuant to the application for TIFIA credit assistance dated October 28, 2016 (the “**Application**”); and

WHEREAS, on January 19, 2017, the Secretary (as defined herein) approved TIFIA credit assistance for the Project in the form of the TIFIA Loan; and

WHEREAS, the TIFIA Lender is prepared to extend credit upon the terms and conditions hereof; and

WHEREAS, the Borrower agrees to repay any amount due pursuant to this Agreement and the TIFIA Bond (as defined herein) in accordance with the terms and provisions hereof and thereof; and

WHEREAS, the TIFIA Lender has entered into this Agreement in reliance upon, among other things, the Base Case Projections (as defined herein) delivered by the Borrower.

NOW, THEREFORE, the premises being as stated above, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged to be adequate, and intending to be legally bound hereby, it is hereby mutually agreed by and between the Borrower and the TIFIA Lender as follows:

Section 1. Definitions. Unless the context otherwise requires, capitalized terms used in this Agreement shall have the meanings set forth below in this Section 1 (Definitions) or as otherwise defined in this Agreement. Any term used in this Agreement that is defined by reference to any other agreement shall continue to have the meaning specified in such agreement, whether or not such agreement remains in effect.

“Acceptable Credit Rating” means, with respect to any Person, the rating of its unsecured, senior long-term indebtedness (or, if such Person has no such rating, then its issuer rating or corporate credit rating) is no lower than (a) at the time such Person executes, delivers or issues an Interest Rate Swap Agreement or Credit Enhancement (other than Existing Interest Rate Swap Agreements or Existing Credit Enhancements), ‘A+’, ‘A1’ or the equivalent rating from each Nationally Recognized Rating Agency that provides a rating on such Person’s unsecured, senior long-term indebtedness or that provides an issuer rating or corporate credit rating for such Person, as applicable; and (b) at any time thereafter, ‘A’, ‘A2’ or the equivalent rating from each Nationally Recognized Rating Agency that provides a rating on such Person’s unsecured, senior long-term indebtedness or that provides an issuer rating or corporate credit rating for such Person, as applicable.

“Accreted Value” means, with respect to any Capital Appreciation Bonds, the principal amount thereof plus the interest accrued thereon, compounded at the approximate interest rate thereon on each date specified therein. The Accreted Value at any date shall be the amounts set forth in the Accreted Value Table as of such date, if such date is a compounding date, and if not, as of the immediately preceding compounding date.

“Accreted Value Table” means the table denominated as such which appears as an exhibit to, and to which reference is made in, a Supplemental Indenture providing for a Series of Capital Appreciation Bonds issued pursuant to such Supplemental Indenture.

“Act” means the Act as defined in the recitals hereto.

“Additional Credit Enhancement” means any Insurance, letter of credit, line of credit, surety bond, standby purchase agreement or other instrument issued by a Qualified Credit Provider, which secures or guarantees the payment of principal of, interest on, or the purchase of, a Permitted Debt, delivered or made available to the Trustee, on or after the Effective Date, as from time to time supplemented or amended pursuant to its respective terms.

“Additional Interest Rate Swap Agreements” means, to the extent from time-to-time permitted by law and this Agreement, with respect to Permitted Debt any interest rate protection arrangement, interest rate swap transaction, interest rate “cap” transaction, interest rate future, interest rate option or other similar interest rate hedging arrangement commonly used in loan transactions to hedge against interest rate increases and not for any speculative purpose, as documented via any agreement entered into, on or after the Effective Date, by the Borrower and a Qualified Counterparty.

“Additional Project Contracts” means any contract, agreement, letter of intent, understanding or instrument (other than a Principal Project Contract) (or any series of the same) entered into by (or on behalf of) the Borrower or SANDAG after the Effective Date, providing

for the design, construction, testing, start-up, safety, financial services, operation or maintenance of the Project, or otherwise relating to the Project, including any master contract providing goods or services for multiple projects or assets including the Project; provided, however, that a contract or agreement shall not constitute an Additional Project Contract if it (a) is entered into in the ordinary course of business in connection with the furnishing of goods or the performance of services, (b) commits the Borrower or SANDAG to spend, or is reasonably expected to involve expenditures by the Borrower or SANDAG in one contract or a series of related contracts of \$10,000,000 or less in any Borrower Fiscal Year, and (c) is for a term not exceeding two (2) years.

“Additional Rights” means those additional rights provided to the TIFIA Lender by the Borrower pursuant to Section 17(n) (*Additional Rights*).

“Agreement” has the meaning provided in the preamble hereto.

“Anticipated TIFIA Loan Disbursement Schedule” means the schedule set forth in **Exhibit B**, reflecting the anticipated disbursement of proceeds of the TIFIA Loan.

“Application” has the meaning provided in the recitals hereto.

“Assumed Debt Service” means, for any Borrower Fiscal Year, the aggregate amount of principal and interest which would be payable on all Secured Obligations if each Excluded Principal Payment were amortized on a substantially level debt service basis for a period commencing on the date of calculation of such Assumed Debt Service and ending on the earlier of (a) the date specified by the Borrower not exceeding thirty (30) years from the date of calculation, or (b) the Tax Expiration Date. Assumed Debt Service will be calculated on a level debt service basis, based on a fixed interest rate equal to the rate at which the Borrower could borrow for such period. This rate will be as set forth in a certificate of a financial advisor or investment banker (which advisor or banker shall be reasonably acceptable to the TIFIA Lender), delivered to the Trustee and the TIFIA Lender, who may rely conclusively on such certificate, and which must be delivered no more than thirty (30) days prior to the date of calculation.

“Bank Secrecy Act” means the Bank Secrecy Act of 1970, as amended, and the regulations promulgated thereunder.

“Bankruptcy Related Event” means, with respect to any Person,

(a) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of such Person or any of its debts, or of a substantial part of the assets thereof, under any Insolvency Laws, or (ii) the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official for such Person or for a substantial part of the assets thereof and, in any case referred to in the foregoing subclauses (i) and (ii), such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered; or

(b) such Person shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official therefor or for a

substantial part of the assets thereof, (ii) generally not be paying its debts as they become due unless such debts are the subject of a bona fide dispute, or become unable to pay its debts generally as they become due, (iii) solely with respect to the Borrower, fail to make two (2) consecutive payments of TIFIA Debt Service in accordance with the provisions of Section 9 (*Payment of Principal and Interest*), (iv) make a general assignment for the benefit of creditors, (v) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition with respect to it described in clause (a) of this definition, (vi) commence a voluntary proceeding under any Insolvency Law, or file a voluntary petition seeking liquidation, reorganization, an arrangement with creditors or an order for relief under any Insolvency Law, (vii) file an answer admitting the material allegations of a petition filed against it in any proceeding referred to in the foregoing subclauses (i) through (vi), inclusive, of this clause (b), or (viii) take any action for the purpose of effecting any of the foregoing, including seeking approval or legislative enactment by any Governmental Authority to authorize commencement of a voluntary proceeding under any Insolvency Law; or

(c) solely with respect to the Borrower, the Trustee shall transfer, pursuant to directions issued by the Bondholders, funds on deposit in the Revenue Fund, the Bond Reserve Fund, the Subordinate Obligations Fund, the Fees and Expenses Fund, the Existing Hedging Termination Obligations Fund, the Junior Subordinate Obligations Fund and the TIFIA Reserve Fund upon the occurrence and during the continuation of an Event of Default under the Indenture Documents for application to the prepayment or repayment of any principal amount of the Senior Obligations or Subordinate Obligations other than in accordance with the provisions of the Indenture.

“Base Case Financial Model” means a financial model prepared by the Borrower forecasting cash flows, including all funding sources and expenditures of the Project and the availability of Sales Tax Revenues and Debt Service for time periods through the Final Maturity Date and based upon assumptions and methodology provided by the Borrower and acceptable to the TIFIA Lender as of the Effective Date, which model shall be provided to the TIFIA Lender as a fully functional Microsoft Excel – based financial model or such other format requested by the TIFIA Lender.

“Base Case Projections” means the initial forecast for the receipt of Sales Tax Revenues by the State Board of Equalization and the transfer of such Sales Tax Revenues into the Revenue Fund, prepared as of the Effective Date using the Base Case Financial Model.

“Bondholder” or **“Holder”** means, when used with respect to the TIFIA Bond, the TIFIA Lender and, when used with respect to any other Secured Obligation, the registered owner of such Secured Obligation.

“Bond Obligation” means, as of any given date of calculation, (a) with respect to any Outstanding Senior Bond which is a current interest bond, the principal amount of such Senior Bond, and (b) with respect to any Outstanding Senior Bond which is a Capital Appreciation Bond, the Accreted Value thereof.

“Bond Reserve Fund” means the fund by that name established pursuant to Section 5.05 of the Indenture.

“Bond Reserve Requirement” with respect to one or more Series of Senior Bonds for which the Borrower shall have established a Bond Reserve Fund shall have the meaning specified in the Supplemental Indenture or Supplemental Indentures establishing the terms and provisions of such Series of Senior Bonds.

“Borrower” has the meaning provided in the preamble hereto.

“Borrower Fiscal Year” means (a) as of the Effective Date, a fiscal year of the Borrower commencing on July 1st of any calendar year and ending on June 30th of the immediately succeeding calendar year or (b) such other fiscal year as the Borrower may hereafter adopt after giving thirty (30) days’ prior written notice to the TIFIA Lender, as provided in Section 17(h) (*Organizational Documents; Fiscal Year*).

“Borrower Related Party” means, individually or collectively, the Borrower, SANDAG and MTS.

“Borrower’s Authorized Representative” means any Person who shall be designated as such pursuant to Section 26 (*Borrower’s Authorized Representative*).

“Business Day” means any day other than a Saturday, a Sunday or a day on which offices of the Government or the State are authorized to be closed or on which commercial banks are authorized or required by law, regulation or executive order to be closed in New York, New York, Washington, D.C., Los Angeles, California, or St. Paul, Minnesota.

“Calculation Date” means each April 1 and October 1 occurring after the Effective Date.

“Calculation Period” means a twelve (12) month period ending on a day prior to the Calculation Date.

“Capital Appreciation Bonds” means the Secured Obligations of any Series designated as Capital Appreciation Bonds in the Supplemental Indenture providing for the issuance of such Series of Secured Obligations and on which interest is compounded and paid at maturity or on prior redemption.

“Capitalized Interest Period” means the period from (and including) the Effective Date to (but excluding) the first day of the initial Payment Period.

“Certificate”, “Statement”, “Request”, “Requisition” or “Order” of the Borrower means, respectively, a written certificate, statement, request, requisition or order signed in the name of the Borrower by a Borrower’s Authorized Representative. If and to the extent required by Section 1.03 of the Indenture, each such instrument shall include the statements provided for in Section 1.03 of the Indenture.

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Congress” has the meaning provided in the recitals hereto.

“**Construction Contract**” means the Construction Services Agreement, by and between SANDAG and the Construction Contractor, dated July 21, 2015, as such agreement is amended and supplemented thereafter.

“**Construction Contractor**” means Mid-Coast Transit Constructors and any successors thereto.

“**Construction Period**” means the period from the Effective Date through the Substantial Completion Date.

“**Construction Schedule**” means (a) the initial schedule or schedules on which the construction timetables for the Project are set forth, attached as **Schedule II**, and (b) any updates thereto included in the Financial Plan most recently approved by the TIFIA Lender pursuant to Section 22(a)(iii)(B) (*Financial Plan*).

“**Contractual Obligation**” means, as to any Person, any contractual provision or any pledge issued or entered into by such Person under any indenture, resolution, contract, agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property or assets is bound, in each case, creating or modifying payment obligations of the Borrower secured by a pledge of Sales Tax Revenues.

“**Control**” means, when used with respect to any particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or partnership or other ownership interests, by contract or otherwise, and the terms “**Controlling**” and “**Controlled by**” have meanings correlative to the foregoing.

“**CPI**” means the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, 1982-84=100 (not seasonally adjusted), or its successor, published by the Bureau of Labor Statistics, with, unless otherwise specified herein, January 2017 as the base period.

“**Credit Enhancement**” means, collectively, (a) the Existing Credit Enhancements, (b) the Subsequent Credit Enhancements and (c) the Additional Credit Enhancements.

“**Debt Service**” (a) when used with respect to the TIFIA Bond, TIFIA Debt Service and (b) when used with respect to any other Secured Obligations, means, as of any date of calculation the sum of:

(i) the interest required to be paid on such Secured Obligations during such Borrower Fiscal Year; and

(ii) the principal or Mandatory Sinking Account Payments required to be paid with respect to such Secured Obligations during such Borrower Fiscal Year;

computed, in each case, on the assumption that no portion of such Secured Obligations shall cease to be Outstanding during such Borrower Fiscal Year except by reason of the application of such scheduled payments;

provided, however, that for purposes of such computation:

(A) Excluded Principal Payments (and the interest related thereto provided such interest is being paid from the same source as the Excluded Principal Payments) shall be excluded from such calculation and Assumed Debt Service shall be included in such calculation; provided, however, that Excluded Principal Payments (and the interest related thereto) will be included in the calculation of Debt Service in the immediately preceding Borrower Fiscal Year in which such Excluded Principal Payments come due unless the Borrower delivers to the Trustee and the TIFIA Lender a Certificate of the Borrower's Authorized Representative that the Borrower has made provision for the payment of such Excluded Principal Payments from a source other than Sales Tax Revenues;

(B) in determining the principal amount due in each Borrower Fiscal Year, payment shall (unless a different subsection of this definition applies for purposes of determining principal maturities or amortization) be assumed to be made in accordance with any amortization schedule established for such Secured Obligations, including any Mandatory Sinking Account Payments or any scheduled redemption or payment of Secured Obligations on the basis of Accreted Value, and for such purpose, the redemption payment or payment of Accreted Value shall be deemed a principal payment, and interest that is compounded and paid as Accreted Value shall be deemed due on the scheduled redemption or payment date of such Capital Appreciation Bond;

(C) with respect to any Variable Interest Rate Secured Obligations Outstanding, or any Variable Interest Rate Secured Obligations proposed to be issued, for which an Interest Rate Swap Agreement is not in place, the interest rate on such Variable Interest Rate Secured Obligations for periods when the actual interest rate cannot yet be determined shall be assumed to be equal to twelve percent (12%) per annum;

(D) with respect to any Variable Interest Rate Secured Obligations for which an Interest Rate Swap Agreement is in place providing for a fixed rate of interest to maturity or for a specific term with respect to such Variable Interest Rate Secured Obligations, the interest rate on such Variable Interest Rate Secured Obligations shall be assumed to be the synthetic fixed interest rate specified in such Interest Rate Swap Agreement for such term; provided that if, pursuant to a Certificate of the Borrower's Authorized Representative filed with the Trustee, the sum of (1) interest payable on such Variable Interest Rate Secured Obligations, plus (2) amounts payable by the Borrower under such Interest Rate Swap Agreement, less (3) amounts receivable by the Borrower under such Interest Rate Swap Agreement, is expected to be greater than the interest payable on the Variable Interest Rate Secured Obligations to which such Interest Rate Swap Agreement relates (i.e., if such Interest Rate Swap Agreement is an "off-market" Interest Rate Swap Agreement), then, in such instance, such excess amounts payable by the Borrower under such Interest Rate Swap Agreement shall be included in the calculation of Debt Service;

(E) with respect to any Secured Obligations bearing interest, or expected to bear interest, at a fixed interest rate for which an Interest Rate Swap

Agreement is in place providing for a net variable interest rate with respect to such Secured Obligations for a specific term, the interest rate on such Secured Obligations shall be assumed to be equal for such term to the sum of (1) the fixed interest rate or rates to be paid on the Secured Obligations, minus (2) the fixed interest rate receivable by the Borrower under such Interest Rate Swap Agreement, plus (3) the average interest rate of the index on which the Interest Rate Swap Agreement is based, as identified in a Certificate of the Borrower's Authorized Representative, or, if not based on an identifiable index, then the SIFMA Swap Index, in each case, over the five (5) years preceding the date of calculation;

(F) if all or any portion of any Secured Obligations feature an option, on the part of the owners or an obligation under the terms of such Secured Obligations, to tender all or a portion of such Secured Obligations to the Borrower, the Trustee or other fiduciary or agent, and requires that such Secured Obligations or portion thereof be purchased if properly presented, then, for purposes of determining Debt Service, each such maturity shall, unless otherwise provided in the Supplemental Indenture pursuant to which such Secured Obligations are authorized or unless provision (G) of this definition then applies to such maturity, be treated as if it were to be amortized over a term of not more than thirty (30) years and with substantially level annual debt service funding payments commencing not later than the year following the year in which such Secured Obligations were issued, and extending not later than thirty (30) years from the date such Secured Obligations were originally issued; the interest rate used for such computation shall be that rate quoted in The Bond Buyer 25 Revenue Bond Index for the last week of the month preceding the date of calculation as published by The Bond Buyer, or if that index is no longer published, another similar index designated by the Borrower's Authorized Representative, taking into consideration whether such Secured Obligations bear interest which is or is not excluded from gross income for federal income tax purposes;

(G) any maturity of Secured Obligations described in provision (F) of this definition and for which the stated maturity date occurs within twelve (12) months from the date such calculation of Debt Service is made, shall be assumed to become due and payable on the stated maturity date, and provision (F) above shall not apply thereto, unless there is delivered to the Trustee and the TIFIA Lender and any other entity making the calculation of Debt Service a certificate of a Borrower's Authorized Representative stating (1) that the Borrower intends to refinance such maturity, (2) the probable terms of such refinancing and (3) that the debt capacity of the Borrower is sufficient to successfully complete such refinancing; upon the receipt of such certificate, such Secured Obligation shall be assumed to be refinanced in accordance with the probable terms set out in such certificate and such terms shall be used for purposes of calculating Debt Service; provided that such assumption shall not result in an interest rate lower than that which would be assumed under provision (F) above and shall be amortized over a term of not more than thirty (30) years from the expected date of refinancing;

(I) principal and interest payments on Secured Obligations shall be excluded to the extent such payments are to be paid from Pledged Revenues then held on deposit by the Trustee or from other amounts on deposit with the Trustee or other

fiduciary in escrow specifically therefor and interest payments shall be excluded to the extent that such interest payments are to be paid from the proceeds of Secured Obligations held by the Trustee or other fiduciary as capitalized interest specifically to pay such interest;

(J) reimbursement obligations to Qualified Credit Providers shall not be included in the calculation of Debt Service to the extent that such reimbursement obligations are duplicative of the Borrower's obligations to make payments on the related Secured Obligations; and

(K) with respect to Subordinate Obligations issued by the Borrower as Subordinate Sales Tax Revenue Commercial Paper Notes (Limited Tax Bonds), such Subordinate Obligations shall not be treated as Excluded Principal Payments, the sole date of issuance shall be deemed to be the first date that any amount of Subordinate Sales Tax Revenue Commercial Paper Notes (Limited Tax Bonds) is issued, the maximum amount of Subordinate Obligations under such program shall be included in the calculation of Debt Service and shall be deemed to be amortized on a level debt service basis for a period commencing on the date of calculation and ending on the date on the tax imposed by the Sales Tax Act terminates and shall be assumed to bear interest at a fixed interest rate equal to the rate at which the Borrower could borrow for such period as set forth in a certification of an independent third-party delivered to the Borrower and the TIFIA Lender within thirty (30) day of the date of calculation.

"Debt Service Coverage Ratio" means, for each Calculation Period, the ratio of: (a) Sales Tax Revenues received during such Calculation Period to (b) Debt Service on all Secured Obligations for such Calculation Period.

"Debt Service Payment Commencement Date" means the earlier of (a) October 1, 2025, (b) the Semi-Annual Payment Date immediately preceding the 5th anniversary of the Substantial Completion Date and (c) the Semi-Annual Payment Date immediately preceding the 5th anniversary of the date on which the TIFIA Loan is disbursed in accordance with Section 4(a).

"Default Rate" means an interest rate equal to the sum of (a) the TIFIA Interest Rate plus (b) 200 basis points.

"Development Default" means (a) a Borrower Related Party fails to diligently prosecute or cause the diligent prosecution of the work related to the Project, and, if a Recovery Plan has been provided in accordance with Section 23(b) (*Recovery Plan*), in accordance with such Recovery Plan or (b) SANDAG fails to complete the Project by the Projected Substantial Completion Date.

"Direct Agreements" means, collectively, (a) the SANDAG Direct Agreement and (b) the MTS Direct Agreement.

"Effective Date" means June 27, 2017.

“**Eligible Project Costs**” means amounts in the Project Budget, substantially all of which are paid by or for the account of the Borrower in connection with the Project, all of which shall arise from the following:

(a) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work and other preconstruction activities;

(b) construction, reconstruction, rehabilitation, replacement and acquisition of real property (including land related to the Project and improvements to land), environmental mitigation, construction contingencies and acquisition of equipment; or

(c) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses and other carrying costs during construction;

provided, however, that Eligible Project Costs must be consistent with 23 U.S.C. § 601 *et seq.*, 49 U.S.C. § 5302(3), the SCCs described in **Schedule I**, and all other applicable federal law.

“**Eligible Project Costs Documentation**” has the meaning provided in Section 4(c) (*Disbursement Conditions*).

“**Environmental Laws**” has the meaning provided in Section 14(s) (*Environmental Matters*).

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute of similar import, and the regulations thereunder, in each case as in effect from time to time.

“**ERISA Affiliate**” means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“**Event of Default**” has the meaning provided in Section 20(a) (*Events of Default and Remedies*).

“**Excluded Principal Payments**” means each payment of principal of Secured Obligations which the Borrower determines (and certifies in a Certificate of the Borrower’s Authorized Representative to the Trustee and the TIFIA Lender) that the Borrower intends to pay with moneys that are not Sales Tax Revenues (such as commercial paper or bond anticipation notes) but from future debt obligations of the Borrower, grants from the State or federal government, or any agency or instrumentality thereof, or any other source of funds of the Borrower, upon which determination of the Borrower the Trustee may conclusively rely. No such determination and certification shall affect the security for such Secured Obligations or the obligation of the Borrower to pay such payments from Sales Tax Revenues or amounts required to be on deposit in the Bond Reserve Fund, if any. No payment of principal of Secured

Obligations may be determined to be an Excluded Principal Payment unless it is due on or prior to the Tax Expiration Date.

“**Executive Director**” has the meaning provided in the preamble thereto.

“**Existing Credit Enhancement**” means any Insurance, letter of credit, line of credit, surety bond, standby purchase agreement or other instrument issued by a Qualified Credit Provider, which secures or guarantees the payment of principal of, interest on, or the purchase of, Permitted Debt, delivered or made available to the Trustee, prior to the Effective Date, as listed and described in **Schedule III**, provided that (and notwithstanding Section 2 (*Interpretation*)) any replacement, amendment or extension of such agreements shall be a Subsequent Credit Enhancement.

“**Existing Hedging Termination Obligations Fund**” means the fund of that name established and created pursuant to the Indenture.

“**Existing Interest Rate Swap Agreements**” means each interest rate swap, cap, collar, option, floor, forward, derivative, or other hedging agreement, arrangement or security, however demonstrated, entered into and between the Borrower and a counterparty, in connection with or incidental to, the issuance or carrying of Senior Bonds, which agreement or arrangement was executed prior to the Effective Date, as listed and described in **Schedule III**, provided that, except as set forth in the next clause and notwithstanding Section 2 (*Interpretation*), any replacement, amendment or extension of such agreements shall be a Subsequent Interest Rate Swap Agreement; provided, further, that an Existing Interest Rate Swap Agreement shall remain such and shall not be considered a Subsequent Interest Rate Swap Agreement if such Existing Interest Rate Swap Agreement is amended only to revise the notational amount thereof in connection with a partial refunding or prepayment of the Senior Bonds associated therewith.

“**Fees and Expenses**” means the fees, expenses and similar charges (excluding Hedging Termination Obligations) owed by the Borrower in connection with Secured Obligations payable from the Fees and Expenses Fund, including the fees and expenses of the TIFIA Lender.

“**Fees and Expenses Fund**” means the fund of that name established and created pursuant to the Indenture.

“**Federal Fiscal Year**” or “**FFY**” means the fiscal year of the Government, which is the twelve (12) month period that ends on September 30 of the specified calendar year and begins on October 1 of the preceding calendar year.

“**FFGA**” means the Full Funding Grant Agreement, dated as of September 14, 2016, by and between the FTA and SANDAG.

“**Final Maturity Date**” means October 1, 2045.

“**Financial Plan**” means (a) the financial plan to be delivered within sixty (60) days after the Effective Date in accordance with Section 22(a) (*Financial Plan*) and (b) any updates thereto required pursuant to Section 22(a) (*Financial Plan*).

“Financial Statements” has the meaning provided in Section 14(x) (*Financial Statements*).

“FTA” means the Federal Transit Administration, a modal agency of the USDOT.

“FTA Master Agreement” means the Fiscal Year 2015 FTA Master Grant Agreement, FTA G-23, dated October 1, 2016, which has no expiration date, and which continues to apply until modified or superseded as outlined therein.

“FTA Project Management Oversight Requirements” means the requirements and conditions set forth in 49 U.S.C. § 5327, in 49 C.F.R. Part 633, and any other laws governing FTA’s project management oversight procedures, in each case, as amended from time-to-time.

“FTA Regional Office” means United States Department of Transportation, Federal Transit Administration, Region IX Office, San Francisco Federal Building, 90 7th Street, Suite 15-300, San Francisco, CA 94103.

“GAAP” means generally accepted accounting principles for state and local governments as defined by the Governmental Accounting Standards Board or such other nationally recognized professional body, in effect from time to time in the United States of America.

“Government” means the United States of America and its departments and agencies.

“Governmental Approvals” means all authorizations, consents, approvals, waivers, exceptions, variances, filings, permits, orders, licenses, exemptions and declarations of or with any Governmental Authority.

“Governmental Authority” means any federal, state, provincial, county, city, town, village, municipal or other government or governmental department, commission, council, court, board, bureau, agency, authority or instrumentality (whether executive, legislative, judicial, administrative or regulatory), of or within the United States of America or its territories or possessions, including the State and its counties and municipalities, and their respective courts, agencies, instrumentalities and regulatory bodies, or any entity that acts “on behalf of” any of the foregoing, whether as an agency or authority of such body.

“Government Obligations” means (a) direct obligations of, or obligations on which the timely payment of principal and interest are fully and unconditionally guaranteed by, the Government, (b) bonds, debentures or notes issued by any of the following federal agencies: Banks for Cooperatives, Federal Intermediate Credit Banks, Federal Home Loan Banks, Export-Import Bank of the United States, Government National Mortgage Association or Federal Land Banks, (c) obligations issued or guaranteed by a Person controlled or supervised by and acting as an instrumentality of the Government pursuant to authority granted by the Congress, and (d) evidences of ownership of proportionate interests in future interest or principal payments on obligations specified in clauses (a), (b) and (c) of this definition held by a bank or trust company as custodian and which underlying obligations are not available to satisfy any claim of the custodian or any Person claiming through the custodian or to whom the custodian may be obligated, in each case.

“Hedging Obligations” means, collectively, the payment of (a) all scheduled amounts payable to the Qualified Counterparties by the Borrower under the Interest Rate Swap Agreements (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower), net of all scheduled amounts payable to the Borrower by such Qualified Counterparties, and (b) all other indebtedness, fees, indemnities and other amounts payable by the Borrower to the Qualified Counterparties under such Interest Rate Swap Agreements, net of all other indebtedness, fees, indemnities and other amounts payable by the Qualified Counterparties to the Borrower under such Interest Rate Swap Agreements; provided that Hedging Obligations shall not include Hedging Termination Obligations. For the avoidance of doubt, all calculations of such amounts payable under the Interest Rate Swap Agreements shall be made in accordance with the terms of the applicable Interest Rate Swap Agreements.

“Hedging Termination Obligations” means the aggregate amount payable to the Qualified Counterparties by the Borrower upon the early termination of all or a portion of an Interest Rate Swap Agreement, net of all amounts payable to the Borrower by such Qualified Counterparties upon the early unwind of all or a portion of such Interest Rate Swap Agreement. For the avoidance of doubt, all calculations of such amounts payable under the Interest Rate Swap Agreement shall be made in accordance with the terms of the applicable Interest Rate Swap Agreement.

“Indemnitee” has the meaning provided in Section 18 (*Indemnification*).

“Indenture” means the Indenture, dated as of March 1, 2008, between the Trustee and the Borrower, as amended by the First Supplemental Indenture, dated as of March 1, 2008, between the Borrower and the Trustee, as amended and supplemented from time to time, the Second Supplemental Indenture, dated as of July 1, 2008, between the Borrower and the Trustee, as amended and supplemented from time to time, the Third Supplemental Indenture, dated as of October 1, 2010, between the Borrower and the Trustee, as amended and supplemented from time to time, the Fourth Supplemental Indenture, dated as of June 1, 2012, between the Borrower and the Trustee, as amended and supplemented from time to time, the Fifth Supplemental Indenture, dated as of September 1, 2014, between the Borrower and the Trustee, as amended and supplemented from time to time, the Sixth Supplemental Indenture, dated as of August 1, 2016, between the Borrower and the Trustee, as amended and supplemented from time to time, and the Seventh Supplemental Indenture, and as it may from time to time be supplemented or amended by any other Supplemental Indenture delivered pursuant to the provisions of the Indenture.

“Indenture Documents” means the Indenture, the Seventh Supplemental Indenture, each Supplemental Indenture executed on or after the Effective Date, the Subordinate Indenture, each Interest Rate Swap Agreement, each Credit Enhancement, and each other agreement, instrument and document executed and delivered pursuant to or in connection with any of the foregoing.

“Insolvency Laws” means the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.*, as from time to time amended and in effect, and any state bankruptcy, insolvency, receivership, conservatorship or similar law now or hereafter in effect.

“Insurance” means any financial guaranty insurance policy or municipal bond insurance policy issued by an Insurer insuring the payment when due of principal of and interest on a Series of Secured Obligations as provided in such financial guaranty insurance policy or municipal bond insurance policy.

“Insurer” means any provider of Insurance with respect to a Series of Secured Obligations.

“Interest Fund” means the fund of that name established and created pursuant to the Indenture.

“Interest Payment Date,” with respect to each Series of Senior Bonds, shall have the meaning specified in the Supplemental Indenture establishing the terms and provisions of such Series of Senior Bonds.

“Interest Rate Swap Agreement” means, collectively, (a) the Existing Interest Rate Swap Agreements, (b) the Subsequent Interest Rate Swap Agreements and (c) the Additional Interest Rate Swap Agreements.

“Investment Grade Rating” means a public rating no lower than ‘BBB-’, ‘Baa3’ or the equivalent public rating from a Nationally Recognized Rating Agency.

“Junior Subordinate Obligations” means the TIFIA Bond and any other Secured Obligations of the Borrower issued or incurred in accordance with Section 3.09 of the Indenture and Section 17(a) (*Indebtedness*) and secured by a lien and charge on Pledged Revenues that is subordinate to the liens and charges on Pledged Revenues that secure the Senior Obligations, the Subordinate Obligations and the obligation to pay Fees and Expenses and Hedging Termination obligations on Existing Interest Rate Swap Agreements.

“Junior Subordinate Obligations Fund” means the fund of that name established and created pursuant to the Indenture.

“LIBOR” means, for any day, the 1-month London Interbank Offered Rate for deposits in the applicable currency as set by the British Banks Association (or the successor thereto if the British Bankers Association is no longer making a London Interbank Offered Rate available) (“BBA”) and published by the BBA at approximately 11:00 a.m. London time on such day. For any day that is not a Business Day, the LIBOR for such day shall be the rate published by the BBA on the immediately preceding Business Day.

“Lien” means any mortgage, pledge, hypothecation, assignment, mandatory deposit arrangement, encumbrance, attachment, lien (statutory or other), charge or other security interest, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever, including any sale-leaseback arrangement, any conditional sale or other title retention agreement, any financing lease having substantially the same effect as any of the foregoing, and the filing of any financing statement or similar instrument under the UCC or any other applicable law.

“Loan Amortization Schedule” means the Loan Amortization Schedule reflected in the applicable column of **Exhibit G**, as amended from time to time in accordance with Section 7 (*Outstanding TIFIA Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule*).

“Mandatory Sinking Account Payment” means, with respect to Term Bonds of any Series and maturity, and pursuant to, the Supplemental Indenture establishing the terms and provisions of such Series of Secured Obligations, the amount required to be deposited by the Borrower in a sinking account in the “Principal Fund” established pursuant to Article V of the Indenture for the payment of Term Bonds of such Series and maturity.

“Material Adverse Effect” means a material adverse effect on (a) the Project, the Pledged Revenues or the Borrower’s ability to receive Sales Tax Revenues in amounts sufficient to meet the financial projections contained in the Base Case Financial Model (or any Revised Financial Model, to the extent any Revised Financial Model has been approved by the TIFIA Lender), (b) the business, operations, properties, condition (financial or otherwise) or prospects of the Borrower or any other Borrower Related Party, (c) the legality, validity or enforceability of any material provision of any Indenture Document, TIFIA Loan Document or Principal Project Contract, (d) the ability of the Borrower, any other Borrower Related Party, or any other Principal Project Party to enter into, perform or comply with any of its material obligations under any Indenture Document, TIFIA Loan Document or Principal Project Contract to which it is a party, (e) the validity, enforceability or priority of the Liens provided under the Indenture Documents on the Trust Estate in favor of the Secured Parties or (f) the TIFIA Lender’s rights or remedies available under any TIFIA Loan Document.

“Moody’s” means Moody’s Investors Service, a corporation duly organized and existing under the laws of the State of Delaware, and its successors and assigns (to the extent such successors are also a Nationally Recognized Rating Agency), except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term “Moody’s” shall be deemed to refer to any other Nationally Recognized Rating Agency selected by the Borrower.

“MTS” means the San Diego Metropolitan Transit System, a public agency in the State.

“MTS Authorized Representative” means any Person who shall be designated as such pursuant to Section 12 of the MTS Direct Agreement.

“MTS Direct Agreement” means the Direct Agreement, dated June 27, 2017, by and among the TIFIA Lender, the Borrower and MTS.

“Nationally Recognized Rating Agency” means any nationally recognized statistical rating organization identified as such by the Securities and Exchange Commission.

“NEPA” means the National Environmental Policy Act of 1969, as amended, and any successor statute of similar import, and regulations thereunder, in each case as in effect from time to time.

“NEPA Determination” means the Record of Decision for the Project issued by FTA on October 15, 2014 in accordance with NEPA, and which is supplemented by the US Fish and

Wildlife Service determination letter dated October 7, 2016, and further supplemented by the environmental re-evaluation letter dated December 20, 2016.

“**OFAC**” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“**Ordinance**” means collectively (a) the San Diego Transportation Improvement Program Ordinance and Expenditure Plan, adopted by the Borrower on July 31, 1987 and approved by a majority of the electors voting on such proposition on November 3, 1987, as supplemented and amended, (b) the San Diego Transportation Improvement Program Ordinance and Expenditure Plan, adopted by the Borrower on May 28, 2004, and approved by at least two-third of electors voting on such proposition in the November 2, 2004 election, and (c) any future ordinance that is adopted pursuant to the Sales Tax Act from time to time and that is designated as an “Ordinance” under the Indenture pursuant to a Supplemental Indenture, and, in each case, any amendments or extensions thereto.

“**Organizational Documents**” means: (a) with respect to any Person that is a Governmental Authority, (i) the constitutional and statutory provisions that are the basis for the existence and authority of such Governmental Authority, including any enabling statutes, ordinances or public charters and any other organic laws establishing such Governmental Authority and (ii) the bylaws, code of regulations, operating procedures or other organizational documents of or adopted by such Governmental Authority by which such Governmental Authority, its powers, operations or procedures or its securities, bonds, notes or other obligations are governed or from which such powers are derived; and (b) with respect to a Person that is not a Governmental Authority, (i) to the extent such Person is a corporation, the certificate or articles of incorporation and the by-laws of such Person, (ii) to the extent such Person is a limited liability company, the certificate of formation or articles of formation or organization and operating or limited liability company agreement of such Person and (iii) to the extent such Person is a partnership, joint venture, trust or other form of business, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization or formation of such Person.

“**Other Hedging Terminations Obligations Fund**” means the fund of that name established and created pursuant to the Indenture.

“**Other Indebtedness Covenant Default**” has the meaning provided in Section 20(a)(vi) (*Cross Default*).

“**Other Indebtedness Misrepresentation Default**” has the meaning provided in Section 20(a)(vi) (*Cross Default*).

“**Other Loan Documents**” has the meaning provided in Section 20(a)(vi) (*Cross Default*).

“**Other Material Indebtedness**” has the meaning provided in Section 20(a)(v) (*Acceleration of Senior Obligations or Other Material Indebtedness*).

“**Outstanding**” when used as of any particular time with reference to Secured Obligations, means (subject to the provisions of Section 11.09 of the Indenture) all Secured Obligations theretofore, or thereupon being, authenticated and delivered by the Trustee under the Indenture except: (a) Secured Obligations theretofore canceled by the Trustee or surrendered to the Trustee for cancellation; (b) Secured Obligations with respect to which all liability of the Borrower shall have been discharged in accordance with Section 10.02 of the Indenture, including Secured Obligations (or portions of Secured Obligations) referred to in Section 11.10 of the Indenture; (c) Secured Obligations for the transfer or exchange of or in lieu of or in substitution for which other Secured Obligations shall have been authenticated and delivered by the Trustee pursuant to the Indenture; and (d) for purposes of exercising rights under the Indenture, Secured Obligations held by or for the benefit of a Borrower Related Party; provided, however, that in the event the principal of or interest on any Secured Obligations shall be paid by a Qualified Credit Provider pursuant to a Credit Enhancement issued in connection with such Secured Obligations, such Secured Obligations shall remain Outstanding for all purposes and shall not be considered defeased or otherwise satisfied or paid by the Borrower and the pledge of Pledged Revenues and all covenants, agreements and other obligations of the Borrower to the Holders shall continue to exist and shall run to the benefit of such Qualified Credit Provider and such Qualified Credit Provider shall be subrogated to the rights of such Holders.

“**Outstanding TIFIA Loan Balance**” means the aggregate principal amount drawn by the Borrower and then outstanding (including capitalized interest) with respect to the TIFIA Loan, as determined in accordance with Section 7 (*Outstanding TIFIA Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule*).

“**Patriot Act**” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, as amended, and all regulations promulgated thereunder.

“**Payment Date**” means each April 1 and October 1.

“**Payment Default**” has the meaning provided in Section 20(a)(i) (*Payment Default*).

“**Payment Period**” means any period of six (6) months from (and including) a Semi-Annual Payment Date to (but excluding) the immediately succeeding Semi-Annual Payment Date, commencing with the six (6) month period ending on the date immediately prior to the Debt Service Payment Commencement Date.

“**Permitted Debt**” means:

(a) Secured Obligations of the Borrower that have been issued or incurred pursuant to the Indenture or the Subordinate Indenture prior to the Effective Date, as listed and described in **Schedule III**;

(b) the Existing Credit Enhancement(s), as listed and described in **Schedule III**;

(c) the Existing Interest Rate Swap Agreements, as listed and described in **Schedule III**;

(d) TIFIA Bond;

(e) Secured Obligations issued or incurred after the Effective Date that satisfy the requirements of Sections 3.02, 3.03, 3.04, 3.05, 3.09 and 3.10, as applicable, of the Indenture and Sections 3.03, 3.04 and 3.05 of the Subordinate Indenture, as applicable, and Section 17(a) (*Indebtedness*);

(f) any bond, note, certificate, warrant, lease, contract or other financial obligation or security of the Borrower that is not, in whole or in part, secured by a Lien on the Pledged Revenues;

(g) Subsequent Credit Enhancements permitted pursuant to the terms of this Agreement;

(h) Additional Credit Enhancements permitted pursuant to the terms of this Agreement;

(i) Subsequent Interest Rate Swap Agreements permitted pursuant to the terms of this Agreement; and

(j) Additional Interest Rate Swap Agreements permitted pursuant to the terms of this Agreement.

“Permitted Hedging Termination” means the early termination, in whole or in part, of any Interest Rate Swap Agreement (a) at the request of the Borrower as a result of a determination by the Borrower that such (or any part of such) Interest Rate Swap Agreement is no longer necessary or required under the terms of this Agreement, (b) to evidence that such Interest Rate Swap Agreement provides for the notional amount thereof to amortize or otherwise be reduced from time to time or (c) as may be required pursuant to Section 16(n)(viii) (*Hedging*).

“Permitted Investments” means (with respect to the investment of the proceeds of the TIFIA Loan or the Project Account or the TIFIA Reserve Fund):

(a) Government Obligations;

(b) certificates of deposit where the certificates are collaterally secured by securities of the type described in clause (a) of this definition and held by a third party as escrow agent or custodian, of a market value not less than the amount of the certificates of deposit so secured, including interest, but this collateral is not required to the extent the certificates of deposit are insured by the Government;

(c) repurchase agreements with counterparties that have an Acceptable Credit Rating, when collateralized by securities of the type described in clause (a) of this definition and held by a third party as escrow agent or custodian, of a market value not less than the amount of the repurchase agreement so collateralized, including interest;

(d) investment agreements or guaranteed investment contracts rated, or with any financial institution whose senior long-term debt obligations are rated, or guaranteed by a financial institution whose senior long-term debt obligations are rated in one of the two (2) highest Rating Categories for comparable types of obligations by any Nationally Recognized Rating Agency; and

(e) money market funds that invest solely in obligations of the United States of America, its agencies and instrumentalities, and having a rating by a Nationally Recognized Rating Agency equal to the then applicable rating of the United States of America by such Nationally Recognized Rating Agency.

“Permitted Liens” means (a) Liens permitted under the terms of the TIFIA Loan Documents, (b) Liens imposed by law for taxes, assessments or governmental charges that are not yet due or are being contested in compliance with Section 16(m) (*Material Obligations; Liens*), (c) judgment Liens in respect of judgments that do not constitute an Event of Default under Section 20(a)(vii) (*Judgments*) and (d) Liens on the proceeds of the FFGA securing grant anticipation notes and other obligations issued by the Borrower but in principal amounts not exceeding the full amount of the FFGA minus the funds received thereunder at the time of the issuance of such obligations.

“Person” means and includes an individual, a general or limited partnership, a joint venture, a corporation, a limited liability company, a trust, an unincorporated organization and any Governmental Authority.

“Pledged Revenues” means (a) all Sales Tax Revenues, (b) all regularly-scheduled amounts (but not termination payments) owed or paid to the Borrower by any Qualified Counterparty under any Interest Rate Swap Agreement after offset for the regularly-scheduled amounts (but not termination payments) owed or paid by the Borrower to such Qualified Counterparty under such Interest Rate Swap Agreement, (c) any additional revenues or assets of the Borrower to be included in the definition of Pledged Revenues pursuant to a Supplemental Indenture; provided, however, that after making the required monthly deposits of Pledged Revenues from the Revenue Fund pursuant to Section 5.02 of the Indenture and Section 8(d) (*Security and Priority; Flow of Funds*), any remaining amounts transferred to the Borrower pursuant to Section 5.02(B) of the Indenture, shall be released from the lien of the Indenture and shall no longer constitute Pledged Revenues.

“Principal Fund” means the fund of that name established and created pursuant to the Indenture.

“Principal Project Contracts” means the Construction Contract, the FFGA, the Transit Vehicle Purchase Contract and any other contract entered into by a Borrower Related Party relating to the Project designated as a Principal Project Contract by the TIFIA Lender and the Borrower, and any document that replaces or supplements any of the foregoing agreements.

“Principal Project Party” means the Construction Contractor and any other Person (other than a Borrower Related Party and the FTA) party to a Principal Project Contract.

“**Project**” means the extension of the San Diego Trolley Blue Line from the Santa Fe Depot in downtown San Diego, California, north to the UTC Transit Center in University City, California, including (a) upgrades to signaling and traction power systems along 3.5 miles of existing trolley tracks from the Santa Fe Depot to the Old Town Transit Center, (b) construction of 10.9 miles of new double track between the Old Town Transit Center and the University City, (c) nine new stations; (d) five park-and ride facilities with 1,070 parking spaces; (e) two transfer facilities; and (f) 36 new low-floor light rail transit vehicles.

“**Project Account**” means the 2017 Project Fund established pursuant to the Seventh Supplemental Indenture.

“**Project BANs**” means the Borrower’s Sales Tax Revenue Short-Term Notes (Limited Tax Bonds) to be issued by the Borrower during the Construction Period, in an aggregate principal amount (plus capitalized interest) at maturity not to exceed \$537,484,439, in one or more series pursuant to the Third Supplement to the Subordinate Indenture the proceeds of which are intended to be applied to the payment of Eligible Project Costs.

“**Project Budget**” means the budget for the Project in the aggregate amount of \$1,813,801,000 attached to this Agreement as **Schedule I** showing a summary of Total Project Costs with a breakdown of all Eligible Project Costs by SCC and the estimated sources and uses of funds for the Project, as amended from time to time with the approval of the TIFIA Lender.

“**Projected Substantial Completion Date**” means November 3, 2021, as such date may be adjusted in accordance with Section 22(a)(iii)(B) (*Financial Plan*) or Section 23(b) (*Recovery Plan*).

“**Qualified Credit Provider**” means (a) with respect to an Existing Credit Enhancement, the Insurer, commercial bank, pension fund, or other financial institution issuing (or having primary obligation, or acting as agent for the financial institutions obligated, under) such Existing Credit Enhancement, (b) with respect to a Subsequent Credit Enhancement that is amending, extending or replacing an Existing Credit Enhancement, any Insurer, commercial bank, pension fund, or other financial institution issuing (or having primary obligation, or acting as agent for the financial institutions obligated, under) such Subsequent Credit Enhancement, which provider has either (i) a rating that is at least equal to the rating of the provider being replaced or (ii) an Acceptable Credit Rating and (c) with respect to an Additional Credit Enhancement or a Subsequent Credit Enhancement that is amending, extending or replacing an Additional Credit Enhancement, any Insurer, commercial bank, pension fund, or other financial institution issuing (or having primary obligation, or acting as agent for the financial institutions obligated, under) such Additional Credit Enhancement or Subsequent Credit Enhancement replacing an Additional Credit Enhancement, which provider has an Acceptable Credit Rating.

“**Qualified Counterparty**” means (a) with respect to an Existing Interest Rate Swap Agreement, each entity that has entered into an Existing Interest Rate Swap Agreement, (b) with respect to a Subsequent Interest Rate Swap Agreement that is amending, novating or replacing an Existing Interest Rate Swap Agreement, any bank or trust company authorized to engage in the banking business that is organized under or licensed as a branch or agency under the laws of the United States of America or any state thereof that has either (i) a rating at least equal to the

rating of the counterparty being replaced or (ii) an Acceptable Credit Rating or (c) with respect to an Additional Interest Rate Swap Agreement or Subsequent Interest Rate Swap Agreement amending, novating or replacing an Additional Interest Rate Swap Agreement, any bank or trust company authorized to engage in the banking business that is organized under or licensed as a branch or agency under the laws of the United States of America or any state thereof that has an Acceptable Credit Rating.

“**Rating Category**” means one of the generic rating categories of a Nationally Recognized Rating Agency without regard to any refinement or gradation of such rating by a numerical modifier or otherwise.

“**Recovery Plan**” means a recovery plan with respect to the construction of the Project that has been prepared by the Borrower and delivered to the TIFIA Lender and the FTA Regional Office, which plan includes a certificate from the Borrower’s Authorized Representative concluding that Substantial Completion is likely to occur by the date specified in the recovery plan.

“**Related Documents**” means the Indenture Documents, the TIFIA Loan Documents, and the Principal Project Contracts.

“**Requisition**” has the meaning provided in Section 4(a) (*Disbursement Conditions*).

“**Revenue Fund**” means the Revenue Fund established pursuant to Section 5.01 of the Indenture.

“**Revised Financial Model**” means the Base Case Financial Model, as it may be updated from time to time pursuant to Section 22(a)(ii)(C) (*Financial Plan*).

“**Sales Tax Act**” means the San Diego County Regional Transportation Commission Act, Chapter 2 of Division 12.7 (Section 132000 et seq.) of the Public Utilities Code of the State as now in effect and as it may from time to time hereafter be amended or supplemented.

“**Sales Tax Revenues**” means the amounts available for distribution to the Borrower on account of the retail transactions and use tax imposed in the County of San Diego pursuant to the Sales Tax Act and the Ordinance after deducting amounts payable by the Borrower to the State Board of Equalization for costs and expenses for its services in connection with the retail transactions and use taxes collected pursuant to the Sales Tax Act known as *TransNet*.

“**SANDAG**” means the San Diego Association of Governments, a public agency in the State.

“**SANDAG’s Authorized Representative**” means any Person who shall be designated as such pursuant to Section 12 of the SANDAG Direct Agreement.

“**SANDAG Direct Agreement**” means the Direct Agreement, dated June 27, 2017, by and among the TIFIA Lender, the Borrower and SANDAG.

“**SCC**” means Standard Cost Categories implemented by the FTA.

“**Secretary**” means the United States Secretary of Transportation.

“**Secured Obligations**” means the Senior Obligations, the Subordinate Obligations, the Junior Subordinate Obligations (including the TIFIA Bond), the Hedging Obligations and the Hedging Termination Obligations.

“**Secured Parties**” means the Trustee, the TIFIA Lender, and the Holders of any Secured Obligations.

“**Semi-Annual Payment Date**” means each April 1 and October 1.

“**Senior Bonds**” means (a) all of the Senior Bonds listed in **Schedule III** hereto issued prior to the Effective Date and (b) the bonds issued under the provisions of Article III of the Indenture and Section 17(a) (*Indebtedness*), payable and secured on a parity with such **Schedule III** senior bonds but shall not include any Senior Parity Obligations, Subordinate Obligations or Junior Subordinate Obligations.

“**Senior Obligations**” means collectively, the Senior Bonds and Senior Parity Obligations.

“**Senior Parity Obligations**” means (a) the Senior Parity Obligations listed in **Schedule III** hereto issued or incurred prior to the Effective Date, (b) any indebtedness, installment sale obligation, lease obligation or other obligations of the Borrower for borrowed money secured by the Sales Tax Revenues on parity with Senior Bonds issued or incurred by the Borrower after the Effective Date, (c) any obligation to pay the Rebate Requirement (as such term is defined in the Indenture), and (d) any Subsequent Interest Rate Swap Agreements or Additional Interest Rate Swap Agreements entered into in connection with a series of Senior Bonds, having an equal lien and charge upon the Sales Tax Revenues and therefore being payable on a parity with the Senior Bonds to which such Subsequent Interest Rate Swap Agreement or Additional Interest Rate Swap Agreement relates (whether or not any Senior Bonds are outstanding) (excluding (i) Fees and Expenses and Hedging Termination Obligations thereon, which shall be secured by a lien and charge on the Sales Tax Revenues that is subordinate to the lien and charge upon Sales Tax Revenues that secures payment of principal of and interest on any Senior Obligations and Subordinate Obligations and (ii) Hedging Termination Obligations on Subsequent Interest Rate Swap Agreements and Additional Interest Rate Swap Agreements, which shall be secured by a lien and charge on the Sales Tax Revenues that is subordinate to the lien and charge upon Sales Tax Revenues that secures the payment of principal of and interest on any Junior Subordinate Obligations).

“**Serial Bonds**” means Senior Bonds, maturing in specified years, for which no Mandatory Sinking Account Payments are provided.

“**Series**” whenever used herein with respect to Secured Obligations, means all of the Secured Obligations designated as being of the same series, authenticated and delivered in a simultaneous transaction regardless of variations in maturity, interest rate, redemption and other provisions, and any Secured Obligations thereafter authenticated and delivered upon transfer or exchange or in lieu of or in substitution for (but not to refund) such Secured Obligations as provided in the Indenture.

“**Servicer**” means such entity or entities as the TIFIA Lender shall designate from time-to-time to perform, or assist the TIFIA Lender in performing, certain duties hereunder.

“**Seventh Supplemental Indenture**” means the Seventh Supplemental Indenture, dated as of June 1, 2017, between the Borrower and the Trustee in connection with the issuance of the TIFIA Bond.

“**SIFMA Swap Index**” means, on any date, a rate determined on the basis of the seven-day high grade market index of tax-exempt variable rate demand obligations, as produced by Municipal Market Data and published or made available by the Securities Industry & Financial Markets Association (formerly the Bond Market Association) (“**SIFMA**”) or any Person acting in cooperation with or under the sponsorship of SIFMA and acceptable to the Trustee and effective from such date.

“**Sinking Account**” means an account by that name established in the Principal Fund pursuant to Section 5.04 of the Indenture.

“**Standard & Poor’s**” or “**S&P**” means Standard & Poor’s, a division of The McGraw-Hill Companies, Inc., a corporation duly organized and existing under and by virtue of the laws of the State of New York, and its successors and assigns (to the extent such successors are also a Nationally Recognized Rating Agency), except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term “Standard & Poor’s” shall be deemed to refer to any other Nationally Recognized Rating Agency selected by the Borrower.

“**State**” has the meaning provided in the preamble hereto.

“**Subordinate Indenture**” means the Amended and Restated Subordinate Indenture, dated as of November 1, 2005, between the Borrower and the Trustee, as supplemented and amended by the First Supplement to the Amended and Restated Subordinate Indenture, dated as of March 27, 2008 and the Second Supplement to the Amended and Restated Subordinate Indenture, dated as of October 1, 2010, as supplemented and amended from time to time hereafter pursuant to its terms.

“**Subordinate Obligations**” means (a) the Subordinate Obligations listed in **Schedule III** hereto issued or incurred prior to the Effective Date and (b) any obligations of the Borrower secured on a parity therewith and issued or incurred by the Borrower after the Effective Date in accordance with Section 3.05(d) of the Indenture, Section 3.03, 3.04 and 3.05, as applicable, of the Subordinate Indenture and Section 17(a) (*Indebtedness*).

“**Subsequent Credit Enhancement**” means any Insurance, letter of credit, line of credit, surety bond, standby purchase agreement or other instrument issued by a Qualified Credit Provider, which (a) secures or guarantees the payment of principal of, interest on, or the purchase of, Permitted Debt and (b) replaces an Existing Credit Enhancement or an Additional Credit Enhancement.

“**Subsequent Interest Rate Swap Agreement**” has the meaning provided in Section 16(n)(iv) (*Hedging*).

“**Substantial Completion**” means the opening of the Project to passenger traffic.

“**Substantial Completion Date**” means the date on which Substantial Completion occurs.

“**Supplemental Indenture**” means an indenture supplementing or modifying the provisions of the Indenture entered into by the Borrower and the Trustee after the Effective Date in accordance with Article IX of the Indenture.

“**Tax Expiration Date**” means March 31, 2048, or such later date to which the levy of the retail transactions and use tax is extended in accordance with the Sales Tax Act and the Ordinance.

“**Term Bonds**” means Secured Obligations payable at or before their specified maturity date or dates from Mandatory Sinking Account Payments established for that purpose and calculated to retire such Secured Obligations on or before their specified maturity date or dates.

“**TIFIA**” has the meaning provided in the recitals hereto.

“**TIFIA Bond**” means the Junior Subordinate Obligation issued by the Borrower to the TIFIA Lender pursuant to the Indenture, in substantially the form of **Exhibit A**, to evidence and secure the payment obligations of the Borrower on the TIFIA Loan, which constitutes a Junior Subordinate Obligation for purposes of the Indenture.

“**TIFIA Debt Service**” means, solely with respect to the TIFIA Bond, any Semi-Annual Payment Date occurring on or after the Debt Service Payment Commencement Date, the principal portion of the Outstanding TIFIA Loan Balance and any interest payable thereon (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower), in each case, (a) as set forth on **Exhibit G**, and (b) due and payable on such Semi-Annual Payment Date in accordance with the provisions of Section 9(c) (*Payment of TIFIA Debt Service*).

“**TIFIA Debt Service Account**” means the account within the Junior Subordinate Obligations Fund established and created pursuant to the Indenture.

“**TIFIA Interest Rate**” has the meaning provided in Section 6 (*Interest Rate*).

“**TIFIA Lender**” has the meaning provided in the preamble hereto.

“**TIFIA Lender’s Authorized Representative**” means the Executive Director and any other Person who shall be designated as such pursuant to Section 27 (*TIFIA Lender’s Authorized Representative*).

“**TIFIA Lien**” means the right, pledge, charge, preference and priority with respect to the Trust Estate granted by the Borrower under the Indenture to secure the TIFIA Bond and the TIFIA Loan.

“**TIFIA Loan**” means the secured loan made by the TIFIA Lender to the Borrower on the terms and conditions set forth herein, pursuant to the Act, in a principal amount not to exceed \$537,484,439 (excluding capitalized interest), to be used in respect of Eligible Project Costs paid or incurred by or on behalf of the Borrower.

“**TIFIA Loan Documents**” means this Agreement, the TIFIA Bond, each Direct Agreement, the Seventh Supplemental Indenture and the other Indenture Documents.

“**TIFIA Reserve Event**” means failure of the Borrower to maintain, as of a Calculation Date, a Debt Service Coverage Ratio for the immediately preceding Calculation Period of at least 1.35 to 1.00.

“**TIFIA Reserve Fund**” means the fund by that name established pursuant to the Indenture and the Seventh Supplemental Indenture.

“**TIFIA Reserve Fund Requirement**” means, as of the date of calculation, an amount equal to fifty percent (50%) of the maximum annual aggregate amount (without duplication) of TIFIA Debt Service (assuming, as of the date of calculation, that the TIFIA Loan is fully drawn by the Borrower) that will become due in the current or any future Calculation Period.

“**Total Project Costs**” means (a) the costs paid or incurred or to be paid or incurred by a Borrower Related Party in connection with or incidental to the acquisition, design, construction and equipping of the Project, including legal, administrative, engineering, planning, design, insurance, and costs of issuance; (b) amounts, if any, required by the Indenture Documents or the TIFIA Loan Documents to be paid into any fund or account upon the incurrence of the TIFIA Loan or any Secured Obligations; (c) payments when due (whether at the maturity of principal, the due date of interest, or upon optional or mandatory prepayment) during the Construction Period in respect of any indebtedness of the Borrower or any Credit Enhancement maintained by a Borrower Related Party, in each case in connection with the Project (other than the TIFIA Loan); and (d) costs of equipment and supplies and initial working capital and reserves required by the Borrower Related Parties for the commencement of operation of the Project, including general administrative expenses and overhead of the Borrower.

“**Transit Vehicle Purchase Contract**” means the contract by and between the MTS and Siemens Industry, Inc. (“**Siemens**”), dated September 30, 2009, providing for the purchase of 110 light rail vehicles, including 36 low-floor light rail transit vehicles constituting a component of the Project, as amended, amended and restated, supplemented or otherwise modified from time to time.

“**Trust Estate**” means as provided for in Section 5.01(A) of the Indenture (a) all Pledged Revenues; and (b) all amounts, including proceeds of the Secured Obligations, held on deposit in the funds and accounts established under the Indenture (except for amounts held in (i) the rebate fund established pursuant to Section 5.09 of the Indenture, (ii) any letter of credit account established pursuant to a Supplemental Indenture and (iii) any purchase fund established pursuant to a Supplemental Indenture), subject to the provision of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in the Indenture as set forth in Section 5.02 of the Indenture.

“**Trustee**” means U.S. Bank National Association, a national banking association duly organized and existing under and by virtue of the laws of the United States of America, or its successors, as Trustee as provided in the Indenture.

“**Uncontrollable Force**” means any cause beyond the control of a Borrower Related Party, including: (a) a hurricane, tornado, flood or similar occurrence, landslide, earthquake, fire or other casualty, strike or labor disturbance, freight embargo, act of a public enemy, explosion, war, blockade, terrorist act, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, sabotage, or act of God (provided that the Borrower Related Parties shall not be required to settle any strike or labor disturbance in which they may be involved) or (b) the order or judgment of any federal, state or local court, administrative agency or governmental officer or body, if it is not also the result of willful or negligent action or a lack of reasonable diligence of a Borrower Related Party and such Borrower Related Party does not control the administrative agency or governmental officer or body; provided that the diligent contest in good faith of any such order or judgment shall not constitute or be construed as a willful or negligent action or a lack of reasonable diligence of the Borrower Related Parties.

“**Uniform Commercial Code**” or “**UCC**” means the Uniform Commercial Code, as in effect from time to time in the State.

“**USDOT**” means the United States Department of Transportation.

“**Variable Interest Rate**” means a variable interest rate to be borne by any Permitted Debt. The method of computing such variable interest rate shall be specified in the Supplemental Indenture pursuant to which such Permitted Debt is incurred. Such Supplemental Indenture shall also specify either (a) the particular period or periods of time for which each value of such variable interest rate shall remain in effect, or (b) the time or times upon which any change in such variable interest rate shall become effective.

“**Variable Interest Rate Secured Obligations**” means any Secured Obligations under the Indenture or Subordinate Indenture that accrue interest at a Variable Interest Rate; provided however, Variable Interest Rate Secured Obligations shall not include Subordinate Obligations issued by the Borrower as Subordinate Sales Tax Revenue Commercial Paper Notes (Limited Tax Bonds) pursuant to the Subordinate Indenture.

Section 2. Interpretation. Unless the context shall otherwise require, the words “hereto”, “herein”, “hereof”, and other words of similar import refer to this Agreement as a whole. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders and vice versa. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise require. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” Whenever the Borrower’s knowledge is implicated in this Agreement or the phrase “to the Borrower’s knowledge” or a similar phrase is used in this Agreement, the Borrower’s knowledge or such phrase(s) shall be interpreted to mean to the best of the Borrower’s knowledge after reasonable and diligent inquiry and investigation. Unless the context shall otherwise require, references to any Person shall be deemed to include such

Person's successors and permitted assigns. Unless the context shall otherwise require, references to preambles, recitals, sections, subsections, clauses, schedules, exhibits, appendices and provisions are to the applicable preambles, recitals, sections, subsections, clauses, schedules, exhibits, appendices and provisions of this Agreement. The schedules and exhibits to this Agreement, and the appendices and schedules to such exhibits, are hereby incorporated by reference and made an integral part of this Agreement. The headings or titles of this Agreement and its sections, schedules or exhibits, as well as any table of contents, are for convenience of reference only and shall not define or limit its provisions. Unless the context shall otherwise require, all references to any resolution, contract, agreement, lease or other document shall be deemed to include any amendments or supplements to, or modifications or restatements or replacements of, such documents that are approved from time-to-time in accordance with the terms thereof and hereof. Every request, order, demand, application, appointment, notice, statement, certificate, consent or similar communication or action hereunder by any party shall, unless otherwise specifically provided, be delivered in writing in accordance with Section 37 (*Notices; Payment Instructions*) and signed by a duly authorized representative of such party.

Section 3. TIFIA Loan Amount. The principal amount of the TIFIA Loan shall not exceed \$537,484,439. TIFIA Loan proceeds shall be disbursed from time-to-time in accordance with Section 4 (*Disbursement Conditions*) and Section 13(b) (*Conditions Precedent to All Disbursements*).

Section 4. Disbursement Conditions. (a) TIFIA Loan proceeds shall be disbursed solely to pay directly for, or to reimburse the Borrower for, the prior payment of, Eligible Project Costs incurred in connection with the Project and may be used to pay or redeem Project BANs to the extent the proceeds thereof have been previously applied to the payment of Eligible Project Costs incurred by or on behalf of the Borrower from time to time in connection with the Project. The TIFIA Loan proceeds shall be disbursed in a single disbursement and shall be made pursuant to a single requisition and certification (the "**Requisition**") in the form set forth in **Appendix One** to **Exhibit D**, along with all documentation and other information required thereby, submitted by the Borrower to, and approved by, the TIFIA Lender, all in accordance with the procedures of **Exhibit D** and subject to the requirements of this Section 4 (*Disbursement Conditions*) and the conditions set forth in Section 13(b) (*Conditions Precedent to All Disbursements*); provided, however, that no disbursements of TIFIA Loan proceeds shall be made on or after the date that is one (1) year after the Substantial Completion Date.

(b) The Borrower shall deliver copies of the Requisition to the TIFIA Lender, the FTA Regional Office and the Servicer (if any) on or before the first (1st) Business Day of the month for which the disbursement is requested. If the TIFIA Lender shall expressly approve the Requisition or shall not expressly deny the Requisition, disbursements of funds shall be made on the fifteenth (15th) day of the month for which the disbursement has been requested, or on the next succeeding Business Day if such fifteenth (15th) day is not a Business Day. Express TIFIA Lender approval or denial shall be substantially in the form annexed hereto as **Appendix Three** to **Exhibit D**. In no event shall disbursements be made more than once each month. Any scheduled disbursement (as reflected in the Anticipated TIFIA Loan Disbursement Schedule) that remains undrawn at the end of any year shall be available for disbursement in subsequent years, subject to Section 4(a) (*Disbursement Conditions*) above.

(c) The Borrower anticipates that it will draw down all of the proceeds of the TIFIA Loan in a single disbursement to reimburse the Borrower for Eligible Project Costs paid by or on behalf of the Borrower prior to such disbursement of TIFIA Loan proceeds, including for the purpose of paying or redeeming the Project BANs. The Borrower shall deliver concurrently to the TIFIA Lender, the FTA Regional Office, and the Servicer (if any) invoices and records evidencing Eligible Project Costs (the “**Eligible Project Costs Documentation**”), irrespective of whether such costs were paid with the proceeds of the Project BANs; provided that the Borrower must deliver all Eligible Project Costs Documentation associated with any Eligible Project Costs included in a Requisition delivered to the TIFIA Lender, the FTA Regional Office, and the Servicer (if any) by the applicable following date: (i) with respect to Eligible Project Costs incurred by or on behalf of the Borrower prior to, and up to three (3) months after, the Effective Date, by the last Business Day of the fourth (4th) month immediately following the Effective Date and (ii) with respect to Eligible Project Costs incurred by or on behalf of the Borrower after the three-month period referred to in clause (i) above, by the last Business Day of each month immediately following such fourth (4th) month referred to in clause (i) above.

(d) Each time the Borrower delivers Eligible Project Costs Documentation to the TIFIA Lender, the FTA Regional Office, and the Servicer (if any), the Borrower shall also deliver to such entities a certificate, duly executed by the Borrower’s Authorized Representative, certifying as to the following:

(i) the amount of Eligible Project Costs financed from the proceeds of Project BANs for the period of time for which such Eligible Project Costs Documentation is being provided;

(ii) that such proceeds of any Project BANs were expended solely in connection with the payment or reimbursement of Eligible Project Costs;

(iii) the amount of Eligible Project Costs paid by or on behalf of the Borrower from sources other than Project BANs and identifying such sources; and

(iv) that there does not currently exist any Event of Default or an event or condition that, with the lapse of time or giving of notice, would constitute an Event of Default (a “**prospective Event of Default**”) or, if there does currently exist an Event of Default or prospective Event of Default, the certificate shall specify all the actions that the Borrower is taking to remedy such Event of Default or prospective Event of Default.

(e) The Eligible Project Costs Documentation submitted pursuant to Section 4(c) and the certificate delivered pursuant to Section 4(d) must be satisfactory to the TIFIA Lender. The Eligible Project Costs Documentation must provide sufficient detail to enable the TIFIA Lender to verify that such costs are Eligible Project Costs paid by or on behalf of the Borrower. The Eligible Project Costs Documentation and the certificate must provide sufficient detail to enable the TIFIA Lender to verify that proceeds of the Project BANs were expended for Eligible Project Costs for the Project and to audit such other Eligible Project Costs paid by or on behalf of the Borrower. The certificate and the Eligible Project Costs Documentation are intended to document Eligible Project Costs in connection with the

reimbursement of such Eligible Project Costs or for the purpose of paying or redeeming, in whole or part, only those Project BANs in respect of which the proceeds were used to pay such documented Eligible Project Costs. The TIFIA Lender shall review each such certificate for compliance with TIFIA disbursement requirements. Within fourteen (14) Business Days following the receipt of the Eligible Project Costs Documentation and the accompanying certificate, the TIFIA Lender shall deliver a notice to the Borrower confirming the Eligible Project Costs set forth in the certificate that have been approved, or notifying the Borrower as to which Eligible Project Costs have not been approved, and confirming the cumulative amount of Eligible Project Costs approved as of the notice date. Such approved amounts of Eligible Project Costs will be disbursed at such time as the Borrower submits the Requisition in respect of such approved amounts in accordance with clauses (a) and (b) above. The Borrower shall not submit a Requisition that seeks reimbursement of any Eligible Project Costs for which the related Eligible Project Costs Documentation was not delivered to the TIFIA Lender and the Servicer (if any) at least one (1) month prior to the date the Requisition is submitted.

Section 5. Term. The term of the TIFIA Loan shall extend from the Effective Date to the Final Maturity Date or to such earlier date as all amounts due or to become due to the TIFIA Lender hereunder have been irrevocably paid in full in cash.

Section 6. Interest Rate. The interest rate with respect to the Outstanding TIFIA Loan Balance (the “**TIFIA Interest Rate**”) shall be two and seventy-two hundredths percent (2.72%) per annum. Interest will be computed on the Outstanding TIFIA Loan Balance (as well as on any past due interest) from time-to-time on the basis of a 365-day or 366-day year, as appropriate, for the actual number of days elapsed and will be compounded semi-annually; provided, however, in the event of a Payment Default, the Borrower shall pay interest on any overdue amount from (and including) its due date to (but excluding) the date of actual payment at the Default Rate. Upon the occurrence of an Event of Default described in Section 20(a)(iii) (*Development Default*) or Section 20(a)(x) (*Project Abandonment*), the interest rate on the Outstanding TIFIA Loan Balance shall be the Default Rate and shall continue to bear interest at such rate until, (a) with respect to an Event of Default described in Section 20(a)(iii) (*Development Default*), such Development Default has been cured, or (b) with respect to an Event of Default described in Section 20(a)(x) (*Project Abandonment*), the Outstanding TIFIA Loan Balance has been irrevocably paid in full in cash.

Section 7. Outstanding TIFIA Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule.

(a) The Outstanding TIFIA Loan Balance will be (i) increased on each occasion on which the TIFIA Lender disburses loan proceeds hereunder, by the amount of such disbursement of loan proceeds; (ii) increased on each occasion on which interest on the TIFIA Loan is capitalized pursuant to the provisions of Section 9(b) (*Capitalized Interest Period*), by the amount of interest so capitalized; and (iii) decreased upon each payment or prepayment of the Outstanding TIFIA Loan Balance, by the amount of principal so paid. The TIFIA Lender may in its discretion at any time and from time-to-time, or when so requested by the Borrower, advise the Borrower by written notice of the amount of the Outstanding TIFIA Loan Balance as of the date of such notice, and its determination of such amount in any such notice shall be deemed conclusive absent manifest error.

(b) The TIFIA Lender is hereby authorized to modify the Loan Amortization Schedule included in **Exhibit G** from time-to-time, in accordance with the principles set forth below in this clause (b), to reflect (i) any change to the Outstanding TIFIA Loan Balance, (ii) any change to the date and amount of any principal or interest due and payable or to become due and payable by the Borrower under this Agreement, and (iii) such other information as the TIFIA Lender may determine is necessary for administering the TIFIA Loan and this Agreement. Any calculations described above shall be rounded up to the nearest whole cent. Any partial prepayments of the Outstanding TIFIA Loan Balance pursuant to Section 10 (*Prepayment*) shall be applied in accordance with Section 10(b) (*General Prepayment Instructions*). Any adjustments or revisions to the Loan Amortization Schedule as a result of changes in the Outstanding TIFIA Loan Balance other than prepayments shall be applied to reduce future payments due on the TIFIA Bond in inverse order of maturity. Absent manifest error, the TIFIA Lender's determination of such matters as set forth on **Exhibit G** shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other TIFIA Loan Document. The TIFIA Lender shall provide the Borrower with a copy of **Exhibit G** as revised, but no failure to provide or delay in providing the Borrower with such copy shall affect any of the obligations of the Borrower under this Agreement or the other TIFIA Loan Documents.

Section 8. Security and Priority; Flow of Funds. (a) As security for the TIFIA Loan, the Borrower shall pledge, assign and grant, or shall cause to be pledged, assigned and granted, to the Trustee for the benefit of the TIFIA Lender, Liens on the Trust Estate in accordance with the provisions of the Indenture Documents. The TIFIA Loan shall be secured by a Lien on the Trust Estate, (i) subordinate to the Liens and charges on the Trust Estate that secure the Senior Obligations, the Subordinate Obligations, the related Fees and Expenses and Hedging Termination Obligations on Existing Interest Rate Swap Agreements, (ii) on a parity with the Liens and charges on the Trust Estate that secure other Junior Subordinate Obligations, if any and (iii) senior to the Liens and charges on the Trust Estate that secure Hedging Termination Obligations on Subsequent Interest Rate Swap Agreements and Additional Interest Rate Swap Agreements.

(b) Except (i) for the Permitted Liens, or (ii) to the extent otherwise provided in clause (a) of this Section 8, the Trust Estate will be free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with the Lien on the Trust Estate securing the TIFIA Loan and the TIFIA Bond created by the Indenture and the Seventh Supplemental Indenture, and all corporate and regulatory action on the part of the Borrower or any other applicable entity to that end has been duly and validly taken.

(c) The Borrower shall not use, and shall not direct the Trustee to use, Pledged Revenues to make any payments or satisfy any obligations other than in accordance with the provisions of this Section 8 and the Indenture, nor shall the Borrower apply, or direct the Trustee to apply, any portion of the Pledged Revenues in contravention of this Agreement or the Indenture Documents.

(d) The Indenture provides that all Pledged Revenues shall be deposited in the Revenue Fund and applied in the following order of priority, as more fully described, and in accordance with the requirements specified in Section 5.02 of the Indenture:

(i) First, to the Interest Fund, the amount required to be deposited therein in accordance with Section 5.02(A)(1) of the Indenture;

(ii) Second, to the Principal Fund, the amount required to be deposited therein in accordance with Section 5.02(A)(2) of the Indenture;

(iii) Third, to the Bond Reserve Fund, the amount required to be deposited therein in accordance with Section 5.05(D) of the Indenture;

(iv) Fourth, to the Subordinate Obligations Fund, the amount required to be deposited therein in accordance with Section 5.02(A)(4) of the Indenture;

(v) Fifth, to the Fees and Expenses Fund, the amount required to be deposited therein in accordance with Section 5.02(A)(5) of the Indenture;

(vi) Sixth, to the Existing Hedging Termination Obligations Fund, the amount required to be deposited therein in accordance with Section 5.02(A)(6) of the Indenture;

(vii) Seventh, to the Junior Subordinate Obligations Fund, the amount required by Section 5.02(A)(7) of the Indenture;

(viii) Eighth, to the TIFIA Reserve Fund, the amount required by Section 5.02(A)(8) of the Indenture and Section 16(k)(iii) (*Funds and Accounts; Permitted Investments; TIFIA Reserve Fund*) of this Agreement;

(ix) Ninth, to the Other Hedging Termination Obligations Fund, the amount required by Section 5.02(A)(9) of the Indenture; and

(x) Tenth, any Pledged Revenues remaining after the deposits described in (i), (ii), (iii), (iv), (v), (vi), (vii), (viii) and (ix) above, except as the Borrower shall otherwise direct in writing, shall be transferred to the Borrower and shall no longer constitute Pledged Revenues.

Section 9. Payment of Principal and Interest.

(a) Payment Dates. The Borrower agrees to pay, and shall cause the Trustee to pay, solely from Pledged Revenues, the principal of and interest on the TIFIA Loan by making payments on the TIFIA Bond in accordance with the provisions of this Agreement and the Indenture Documents on each Semi-Annual Payment Date, beginning on the Debt Service Payment Commencement Date, and on each other date on which payment thereof is required to be made hereunder (including, without limitation, the Final Maturity Date and any date on which payment thereof is due by reason of the mandatory prepayment and redemption, or acceleration of the maturity of the TIFIA Loan or otherwise); provided that if any such date is not a Business

Day, payment shall be made on the next Business Day following such date. Any payment of the TIFIA Bond shall be treated as a payment of the TIFIA Loan and any prepayment of principal of the TIFIA Loan shall be treated as a redemption of the TIFIA Bond.

(b) Capitalized Interest Period. No payment of the principal of or interest on the TIFIA Loan is required to be made during the Capitalized Interest Period. On each March 31 and September 30 occurring during the Capitalized Interest Period, interest accrued on the TIFIA Loan in the six (6) month period ending immediately prior to such date shall be capitalized and added to the Outstanding TIFIA Loan Balance. Within thirty (30) days after the end of the Capitalized Interest Period, the TIFIA Lender shall give written notice to the Borrower stating the Outstanding TIFIA Loan Balance as of the close of business on the last day of the Capitalized Interest Period, which statement thereof shall be deemed conclusive absent manifest error; provided, however, that no failure to give or delay in giving such notice shall affect any of the obligations of the Borrower hereunder or under any of the other TIFIA Loan Documents.

(c) Payment of TIFIA Debt Service. On each Semi-Annual Payment Date occurring on or after the Debt Service Payment Commencement Date, the Borrower shall pay, or cause the Trustee to pay, solely from Pledged Revenues, TIFIA Debt Service in the amounts set forth in respect of such Semi-Annual Payment Date on **Exhibit G**, as the same may be revised as provided in Section 7 (*Outstanding TIFIA Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule*), which payments shall be made in accordance with Section 9(d) (*Manner of Payment*).

(d) Manner of Payment. Payments under this Agreement and the TIFIA Bond shall be made by wire transfer on or before each Semi-Annual Payment Date in immediately available funds in accordance with payment instructions provided by the TIFIA Lender pursuant to Section 37 (*Notices; Payment Instructions*), as modified in writing from time-to-time by the TIFIA Lender. The Borrower may make any such payment or portion thereof (or direct the Trustee to make such payment) with funds then on deposit in the TIFIA Debt Service Account.

(e) Final Maturity Date. Notwithstanding anything herein to the contrary, the Outstanding TIFIA Loan Balance and any accrued interest thereon shall be due and payable in full on the Final Maturity Date (or on any earlier date on which the maturity of the TIFIA Loan shall be accelerated pursuant to the provisions of Section 20 (*Events of Default and Remedies*)).

(f) TIFIA Bond; Adjustments to Loan Amortization Schedule. As evidence of the Borrower's obligation to repay the TIFIA Loan, the Borrower shall issue and deliver to the TIFIA Lender, on or prior to the Effective Date, the TIFIA Bond substantially in the form of **Exhibit A**, having a maximum principal amount (excluding capitalized interest) of \$537,484,439 (subject to increase or decrease as herein provided) and bearing interest at the rate set forth in Section 6 (*Interest Rate*). The TIFIA Lender is hereby authorized to modify the Loan Amortization Schedule included in **Exhibit G** from time to time in accordance with Section 7 (*Outstanding TIFIA Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule*) to reflect (i) the amount of each disbursement made under this Agreement, (ii) the date and amount of any principal or interest due and payable or to become due and payable by the Borrower under this Agreement, (iii) each repayment or prepayment in respect of the principal amount of the TIFIA Loan and (iv) such other information as the TIFIA Lender may determine is necessary for

administering the TIFIA Loan and this Agreement. Unless otherwise agreed at the time of a prepayment, each prepayment of principal shall be applied as set forth in Section 10(b) (*General Prepayment Instructions*). Absent manifest error, the TIFIA Lender's determination of such matters as set forth on **Exhibit G** shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other TIFIA Loan Document.

(g) Payment Obligations Limited to Pledged Revenues. Notwithstanding anything herein to the contrary, all obligations of the Borrower to pay TIFIA Debt Service or to make any other payments hereunder shall be limited in all cases to Pledged Revenues available under the Indenture.

Section 10. Prepayment.

(a) Optional Prepayments. The Borrower may prepay the TIFIA Loan by causing the Trustee to optionally redeem the TIFIA Bond in whole or in part (and, if in part, the principal installments and amounts thereof to be prepaid shall be determined by the Borrower; provided, however, that such prepayments shall be in principal amounts of \$1,000,000 or any integral multiple of \$1.00 in excess thereof), at any time or from time-to-time, without penalty or premium, by paying to the TIFIA Lender such principal amount of the TIFIA Loan to be prepaid, together with the unpaid interest accrued on the amount of principal so prepaid to the date of such prepayment. Each prepayment of the TIFIA Loan shall be made on such date and in such principal amount as shall be specified by the Borrower in a written notice delivered to the TIFIA Lender. In the case of any optional prepayment, such written notice shall be delivered to the TIFIA Lender not less than ten (10) days or more than thirty (30) days prior to the date set for prepayment, unless otherwise agreed by the TIFIA Lender. At any time between delivery of such written notice and the applicable optional prepayment, the Borrower may, without penalty or premium, rescind its announced optional prepayment by further written notice to the TIFIA Lender. Anything in this Section 10(a) (*Optional Prepayments*) to the contrary notwithstanding, the failure by the Borrower to make any optional prepayment shall not constitute a breach or default under this Agreement.

(b) General Prepayment Instructions. Upon the TIFIA Lender's receipt of confirmation that payment in full of the entire Outstanding TIFIA Loan Balance and any unpaid interest and fees with respect thereto has occurred as a result of a mandatory or optional prepayment, the TIFIA Lender shall surrender the TIFIA Bond to the Borrower or its representative at the principal office of the TIFIA Lender. If the Borrower prepays only part of the unpaid balance of principal of such TIFIA Bond, the TIFIA Lender may make a notation on **Exhibit G** indicating the amount of principal of and interest on such TIFIA Bond then being prepaid. Absent manifest error, the TIFIA Lender's determination of such matters as set forth on **Exhibit G** shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other TIFIA Loan Document. All such partial prepayments of principal shall be applied to reduce future payments due on the TIFIA Bond in inverse order of maturity. If said monies shall not have been so paid on the prepayment date, such principal amount of such TIFIA Bond shall continue to bear interest until payment thereof at the rate provided for in Section 6 (*Interest Rate*).

Section 11. Reserved.

Section 12. Compliance with Laws. The Borrower agrees to comply with all applicable federal and State laws. The Borrower further agrees to require its contractors and subcontractors at all tiers for the Project to comply in all material respects with all applicable federal and State laws in respect of the Project. The FTA Regional Office has oversight responsibility for ensuring compliance with all applicable provisions of federal transportation law and for project oversight activities for the Project, including compliance with the terms of the FTA Master Agreement and applicable federal law. The Borrower agrees to cooperate with the other Borrower Related Parties, the FTA Regional Office, its agents and representatives in carrying out their duties under this Agreement, the FFGA and the FTA Master Agreement. If the Borrower Related Parties fail to obtain all state and federal permits required for construction or operation of the Project or otherwise fail to comply with the foregoing provisions of this Section 12, the Borrower and the other Borrower Related Parties shall assume the risk of any loss associated therewith. The Borrower acknowledges and agrees that any costs incurred in connection with the Project prior to receipt of all necessary authorizations from the USDOT in respect of such costs (which may include approvals of prior-incurred costs) are incurred solely at the Borrower's risk and expense, will not constitute Eligible Project Costs, and no TIFIA Loan proceeds will be disbursed in respect thereof.

Section 13. Conditions Precedent.

(a) Conditions Precedent to Effectiveness. Notwithstanding anything in this Agreement to the contrary, this Agreement shall not become effective until each of the following conditions precedent shall have been satisfied or waived in writing by the TIFIA Lender:

(i) The Borrower shall have duly executed and delivered to the TIFIA Lender this Agreement and the TIFIA Bond, each in form and substance satisfactory to the TIFIA Lender.

(ii) The Borrower shall have delivered to the TIFIA Lender certified, complete, and fully executed copies of each Indenture Document, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date, and each such agreement shall be in full force and effect and in form and substance satisfactory to the TIFIA Lender, and all conditions contained in such documents to the closing of the transactions contemplated thereby shall have been fulfilled or effectively waived (provided that for purposes of this Section 13(a)(ii) (*Conditions Precedent to Effectiveness*), any such waiver shall be subject to the TIFIA Lender's consent in its sole discretion).

(iii) Counsel to the Borrower shall have rendered to the TIFIA Lender legal opinions satisfactory to the TIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit H-1**) and bond counsel to the Borrower shall have rendered to the TIFIA Lender legal opinions satisfactory to the TIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit H-2**).

(iv) The Borrower shall have provided a certificate from the Borrower's Authorized Representative as to the absence of debarment, suspension or voluntary exclusion from participation in Government contracts, procurement and non-procurement matters substantially in the form attached hereto as **Exhibit C** with respect to the Borrower and its principals (as defined in 2 C.F.R. § 180.995).

(v) The Borrower shall have provided to the TIFIA Lender satisfactory evidence that the Project has been included in (A) the metropolitan transportation improvement program adopted by SANDAG, (B) the State transportation plan, and (C) the State transportation improvement program approved by the USDOT or its designated agency, in each case to the extent required by 23 U.S.C. §§ 134 and 135, and 23 U.S.C. § 602(a)(3), as applicable; and the financial plan for each such program or plan shall reflect the amount of the TIFIA Loan and all other federal funds to be used for the Project as sources of funding for the Project.

(vi) The Borrower shall have provided evidence to the TIFIA Lender's satisfaction, no more than thirty (30), but no less than fourteen (14) days prior to the Effective Date, of the assignment by at least two (2) Nationally Recognized Rating Agencies of ratings of "AAA" on the Senior Bonds and "A-" or "A3" on the TIFIA Loan and no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(vii) The Borrower shall have delivered to the TIFIA Lender a certificate from the Borrower's Authorized Representative in the form attached hereto as **Exhibit K** (A) as to the satisfaction of certain conditions precedent set forth in this Section 13(a) (*Conditions Precedent to Effectiveness*) as required by the TIFIA Lender, (B) designating the Borrower's Authorized Representative, and (C) confirming such person's position and incumbency.

(viii) The Borrower shall have demonstrated to the TIFIA Lender's satisfaction that the funds forecasted to be available under the Base Case Projections will be sufficient to pay all Total Project Costs necessary to achieve Substantial Completion.

(ix) SANDAG shall have satisfied the conditions precedent set forth in Section 4 of the SANDAG Direct Agreement, MTS shall have satisfied the conditions precedent set forth in Section 4 of the MTS Direct Agreement and each of the Direct Agreements shall be duly executed by the respective parties thereto and such agreement shall be in full force and effect and delivered to the TIFIA Lender.

(x) The Borrower shall have provided to the TIFIA Lender certified, complete, and fully executed copies of the Principal Project Contracts to which it is a party, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date and each such agreement shall be in full force and effect and in form and substance satisfactory to the TIFIA Lender.

(xi) The Borrower shall have demonstrated to the TIFIA Lender's satisfaction that the Borrower Related Parties have obtained all Governmental Approvals necessary to commence construction of the Project and that all such Governmental

Approvals are final, non-appealable, and in full force and effect (and are not subject to any notice of violation, breach, or revocation).

(xii) The Borrower shall have delivered to the TIFIA Lender a certified Base Case Financial Model on or prior to the Effective Date, which Base Case Financial Model shall (A) demonstrate that projected Sales Tax Revenues are sufficient to meet the Loan Amortization Schedule, (B) demonstrate a Debt Service Coverage Ratio for each Calculation Period through the Final Maturity Date that is not less than 1.75 to 1.00 and (C) otherwise be in form and substance acceptable to the TIFIA Lender.

(xiii) The Borrower shall have paid in full all invoices delivered by the TIFIA Lender to the Borrower as of the Effective Date for the reasonable fees and expenses of the TIFIA Lender's counsel and financial advisors and any auditors or other consultants employed by the TIFIA Lender for the purposes hereof (such reasonableness to be determined in accordance with Part 31 of the Federal Acquisition Regulation).

(xiv) The Borrower shall have provided evidence satisfactory to the TIFIA Lender of compliance by the Borrower Related Parties with (A) NEPA, and (B) all applicable requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*) and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*) and shall have provided evidence satisfactory to the TIFIA Lender of such compliance upon request by the TIFIA Lender.

(xv) The TIFIA Lender shall have delivered its initial TIFIA Lender's Authorized Representative certificate.

(xvi) The Borrower shall have (A) obtained a Federal Employer Identification Number, (B) obtained a Data Universal Numbering System number, and (C) registered with, and obtained confirmation of active registration status from, the federal System for Award Management (www.SAM.gov).

(xvii) The Borrower shall have delivered to the TIFIA Lender (a) certificates of insurance evidencing that the Borrower Related Parties and each applicable Principal Project Party have obtained insurance with respect to the Project that meets the requirements of Section 16(f) (*Insurance*), Section 7(b) of the SANDAG Direct Agreement and Section 7(c) of the MTS Direct Agreement.

(xviii) The Borrower shall have provided to the TIFIA Lender evidence that the Borrower is duly organized and validly existing under the laws of its jurisdiction of formation, with full power, authority and legal right to own its properties and carry on its business and governmental functions as now conducted, including the following documents, each certified by the Borrower's Authorized Representative: (A) a copy of its Organizational Documents, as in effect on the Effective Date (and certified by the Secretary of the State or the state of its formation, to the extent applicable), which Organizational Documents shall be in full force and effect and shall not have been amended since the date of the last amendment thereto shown on the certificate, (B) a copy of all resolutions authorizing the Borrower to execute and deliver, and to perform its

respective obligations under, the TIFIA Loan Documents to which it is a party, and such resolutions have not been subsequently modified, rescinded or amended, are in full force and effect in the form adopted, and are the only resolutions adopted by the Borrower relating to the matters described therein, and (C) a copy of such further instruments and documents as are necessary, appropriate or advisable to effectuate the foregoing resolutions and to consummate and implement the transactions contemplated by such resolutions and the TIFIA Loan Documents.

(xix) The Borrower shall have provided the TIFIA Lender records of the Eligible Project Costs incurred prior to the Effective Date, in form and substance satisfactory to the TIFIA Lender and in sufficient time prior to the Effective Date to permit the TIFIA Lender and the FTA Regional Office to review such costs.

(xx) The Borrower shall have provided to the TIFIA Lender certified, complete and fully executed copies of each performance security instrument delivered to or by the Borrower or any other Borrower Related Party pursuant to any Principal Project Contract as of the Effective Date, each of which shall be (A) in compliance with the requirements for such performance security pursuant to the applicable Principal Project Contract, and (B) in full force and effect.

(xxi) The representations and warranties of the Borrower set forth in this Agreement (including Section 14 (*Representations and Warranties of Borrower*)), the representations and warranties of SANDAG set forth in Section 5 of the SANDAG Direct Agreement and the representations and warranties of MTS set forth in Section 5 of the MTS Direct Agreement shall be true and correct, as of the Effective Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(xxii) The Borrower shall have provided the TIFIA Lender with evidence satisfactory to the TIFIA Lender that, as of the Effective Date (A) the maximum principal amount of the TIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed thirty-three percent (33%) of reasonably anticipated Eligible Project Costs and (B) as required pursuant to § 603(b)(9) of the Act, the total federal assistance provided to the Project, including the maximum principal amount of the TIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Eligible Project Costs.

(xxiii) The Borrower shall have delivered to the TIFIA Lender a duly executed certificate from the Trustee in the form attached hereto as **Exhibit J**.

(xxiv) The Borrower shall have provided a certificate from the Borrower's Authorized Representative as to the prohibition on the use of appropriated funds for lobbying substantially in the form attached hereto as **Exhibit M** in accordance with 49 C.F.R. §20.100(b).

(xxv) The Borrower shall have delivered such other agreements, documents, instruments, opinions and other items required by the TIFIA Lender, all in form and substance satisfactory to the TIFIA Lender, including evidence that all other Project funding requirements have been met (including evidence of other funding sources or funding commitments).

(b) Conditions Precedent to All Disbursements. Notwithstanding anything in this Agreement to the contrary, the TIFIA Lender shall have no obligation to make any disbursement of loan proceeds to the Borrower until each of the following conditions precedent has been satisfied or waived in writing by the TIFIA Lender:

(i) The Borrower shall have provided to the TIFIA Lender evidence satisfactory to the TIFIA Lender of the issuance of the Project BANs.

(ii) The Borrower shall certify that the proceeds of the Project BANs have been fully spent on costs of the Project; provided, however, that the proceeds of the TIFIA Loan shall solely be used to pay directly for, or to reimburse prior payment of, Eligible Project Costs;

(iii) With respect to any disbursement occurring sixty (60) days or more after the Effective Date, the Borrower shall have provided the Financial Plan, or the most recent update thereto, in each case in accordance with Section 22(a) (*Financial Plan*).

(iv) To the extent not previously delivered to the TIFIA Lender, the Borrower shall have delivered to the TIFIA Lender certified, complete and fully executed copies of any Indenture Documents entered into after the Effective Date.

(v) To the extent not previously delivered to the TIFIA Lender, the Borrower shall have provided certified copies of all Principal Project Contracts and all Additional Project Contracts requested by the TIFIA Lender pursuant to Section 16(b) (*Copies of Documents*) or Section 17(e) (*Additional Project Contracts*) (including, in each case, any amendment, modification or supplement thereto) entered into after the Effective Date.

(vi) The Borrower shall have demonstrated to the TIFIA Lender's satisfaction that all Governmental Approvals necessary as of the time of the applicable disbursement for the development, construction, operation and maintenance of the Project have been issued and are in full force and effect.

(vii) Each of the insurance policies obtained by any Borrower Related Party and by any applicable Principal Project Party in satisfaction of the conditions in Section 13(a)(xvii) (*Conditions Precedent to Effectiveness*) is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider.

(viii) At the time of, and immediately after giving effect to, any disbursement of TIFIA Loan proceeds then currently requested, (A) no Event of Default hereunder or event of default under any other Related Document and (B) no event that,

with the giving of notice or the passage of time or both, would constitute an Event of Default hereunder or event of default under any other Related Document, in each case, shall have occurred and be continuing.

(ix) To the extent necessary to make the corresponding representations and warranties true, correct and complete as of the date of any disbursement of loan proceeds hereunder, the Borrower shall have delivered an updated version of **Schedule 14(t)**, in form and substance satisfactory to the TIFIA Lender in its sole discretion.

(x) The representations and warranties of each Borrower Related Party set forth in this Agreement (including Section 14 (*Representations and Warranties of Borrower*)) and in each other Related Document shall be true, correct, and complete as of each date on which any disbursement of the TIFIA Loan is made, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(xi) No Material Adverse Effect, or any event or condition that could reasonably be expected to result in a Material Adverse Effect, shall have occurred and be continuing since the date the Borrower submitted the Application to the TIFIA Lender.

(xii) The Borrower shall have delivered to the TIFIA Lender a Requisition that complies with the provisions of Section 4 (*Disbursement Conditions*), and the TIFIA Lender shall have approved (or be deemed to have approved in accordance with Section 4(b) (*Disbursement Conditions*)) such Requisition.

(xiii) The Borrower shall have paid in full all invoices received from the TIFIA Lender as of the date of disbursement of the TIFIA Loan, for the reasonable fees and expenses of the TIFIA Lender's counsel and financial advisors and any auditors or other consultants employed by the TIFIA Lender for the purposes hereof (such reasonableness to be determined in accordance with Part 31 of the Federal Acquisition Regulation).

(xiv) To the extent not previously delivered to the TIFIA Lender, the Borrower shall have provided to the TIFIA Lender certified, complete and fully executed copies of each performance security instrument delivered to or by the Borrower or other Borrower Related Party pursuant to any Principal Project Contract as of the date of disbursement of the TIFIA Loan, each of which performance security instruments shall be (A) in compliance with the requirements for such performance security pursuant to the applicable Principal Project Contract, and (B) in full force and effect.

(xv) The Borrower shall have delivered such other agreements, documents, instruments, opinions and other items required by the TIFIA Lender, all in form and substance satisfactory to the TIFIA Lender.

Section 14. Representations and Warranties of Borrower. The Borrower hereby represents and warrants that, as of the Effective Date and, as to each of the representations and warranties below other than those contained in Section 14(b) (*Officer's Authorization*) and

Section 14(l) (*Credit Ratings*), as of each date on which any disbursement of the TIFIA Loan is requested or made:

(a) Organization; Power and Authority. The Borrower is a public agency organized and validly existing pursuant to the Sales Tax Act. Pursuant to the provisions of the Sales Tax Act, the Borrower controls the use of the ½ cent retail transactions and use tax collected in San Diego County known as *TransNet*. The Borrower is in good standing under the laws of the State, has full legal right, power and authority to enter into the Related Documents then in existence, to execute and deliver the TIFIA Bond, and to carry out and consummate all transactions contemplated hereby and thereby and has duly authorized the execution, delivery and performance of the Related Documents.

(b) Officers' Authorization. As of the Effective Date, the officers of the Borrower executing (or that previously executed) the Related Documents, and any certifications or instruments related thereto, to which the Borrower is a party are (or were at the time of such execution) duly and properly in office and fully authorized to execute the same.

(c) Due Execution; Enforceability. Each of the Related Documents in effect as of any date on which this representation and warranty is made, and to which the Borrower is a party, has been duly authorized, executed and delivered by the Borrower and constitutes the legal, valid and binding agreement of the Borrower enforceable in accordance with its terms, except as such enforceability (i) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally, and (ii) is subject to general principles of equity (regardless of whether enforceability is considered in equity or at law).

(d) Non-Contravention. The execution and delivery of the Related Documents to which the Borrower is a party, the consummation of the transactions contemplated in the Related Documents and the fulfillment of or compliance with the terms and conditions of the Related Documents will not (i) conflict with the Borrower's Organizational Documents, (ii) conflict in any material respect with, or constitute a violation, breach or default (whether immediately or after notice or the passage of time or both) by the Borrower of or under, any applicable law, administrative rule or regulation, any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties or assets are otherwise subject or bound, or (iii) result in the creation or imposition of any Lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower other than the Permitted Liens.

(e) Consents and Approvals. No consent or approval of any trustee, holder of any indebtedness of the Borrower or any other Person, and no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority is necessary in connection with (i) the execution and delivery by the Borrower of the Related Documents, except as have been obtained or made and as are in full force and effect, or (ii) (A) the consummation of any transaction contemplated by the Related Documents or (B) the fulfillment of or compliance by the Borrower with the terms and conditions of the Related Documents, except as have been obtained or made and as are in full force and effect or as are ministerial in

nature and can reasonably be expected to be obtained or made in the ordinary course on commercially reasonable terms and conditions when needed.

(f) Litigation. As of the Effective Date, except as set forth in **Schedule 14(f)**, there is no action, suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation, in any case before or by any court or other Governmental Authority pending or, to the knowledge of the Borrower, threatened against or affecting the Sales Tax Revenues, the Project or the ability of the Borrower to execute, deliver and perform its obligations under the Related Documents. As of the Effective Date and as of each other date on which the representations and warranties herein are made or confirmed, there is no action, suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation before or by any court or other Governmental Authority pending, or to the knowledge of the Borrower, threatened against or affecting the Sales Tax Revenues, the Project, the Borrower or the assets, properties or operations of the Borrower, that in any case could reasonably be expected to result in a Material Adverse Effect. To the Borrower's knowledge, there are no actions of the type described above pending, threatened against, or affecting any of the Principal Project Parties except for matters arising after the Effective Date that could not reasonably be expected to result in a Material Adverse Effect. The Borrower is not in default (and no event has occurred and is continuing that, with the giving of notice or the passage of time or both, could constitute a default) with respect to any Governmental Approval, which default could reasonably be expected to result in a Material Adverse Effect.

(g) Security Interests. The Indenture Documents and State Government Code Section 5451 establish, in favor of the Trustee for the benefit of the TIFIA Lender, the valid and binding Lien on the Trust Estate that they purport to create, irrespective of whether any Person has notice of the pledge and without the need for any physical delivery, recordation, filing, or further act. Such Lien is in full force and effect and is (i) not subordinate or junior to any other Liens in respect of the Trust Estate except for the Lien of the Indenture associated with Senior Obligations, the Subordinate Obligations, the related Fees and Expenses and Hedging Termination Obligations on Existing Interest Rate Swap Agreements, (ii) not *pari passu* with any obligations other than any other Junior Subordinate Obligations and (iii) senior to Hedging Termination Obligations on Additional Interest Rate Swap Agreements and Subsequent Interest Rate Swap Agreements. The Borrower has duly and lawfully taken all actions required under this Agreement, the Indenture Documents, and applicable laws for the pledge of the Trust Estate pursuant to and in accordance with the Indenture Documents. The Borrower is not in breach of any covenants set forth in Section 16(a) (*Securing Liens*) or in the Indenture Documents with respect to the matters described in such Section or documents. The TIFIA Lien is valid and effective and enforceable under State law without any further action by the Borrower or any other party, and no documents or instruments are required or necessary to be recorded or filed for record in any place to establish the validity, effectiveness or enforceability of the TIFIA Lien to the extent contemplated by the Indenture Documents. All taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any Indenture Documents, TIFIA Loan Documents, Principal Project Contract or any instruments, certificates or financing statements in connection with the foregoing, have been paid. Neither the attachment, perfection, validity, enforceability or priority of the security interest in the Trust Estate granted pursuant to the Indenture Documents is governed by Division 9 of the UCC.

(h) No Debarment. The Borrower has fully complied with its verification obligations under 2 C.F.R. § 180.320 and confirms, based on such verification, that, to its knowledge, neither the Borrower nor any of its principals (as defined in 2 C.F.R. § 180.995) is debarred, suspended or voluntarily excluded from participation in Government contracts, procurement or non-procurement matters or delinquent on a Government debt as more fully set forth in the certificate delivered pursuant to Section 13(a)(iv) (*Conditions Precedent to Effectiveness*).

(i) Accuracy of Representations and Warranties. The representations, warranties and certifications of the Borrower set forth in this Agreement and the other Related Documents are true, correct, and complete, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true, correct, and complete as of such earlier date).

(j) Compliance with Federal Requirements. The Borrower has complied, with respect to the Project, with all applicable requirements of NEPA, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*), and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*).

(k) Transportation Improvement Program. The Project has been included in (i) the metropolitan transportation improvement program adopted by SANDAG, (ii) the State transportation plan, and (iii) the State transportation improvement program approved by the USDOT or its designated agency, in each case to the extent required by 23 U.S.C. §§ 134 and 135 and 23 U.S.C. § 602(a)(3), as applicable. The financial plan for each such program or plan reflects the amount of the TIFIA Loan and all other federal funds to be used for the Project as sources of funding for the Project.

(l) Credit Ratings. The Senior Bonds and the TIFIA Loan have received a public Investment Grade Rating from at least two (2) Nationally Recognized Rating Agencies and written evidence of such ratings has been provided to the TIFIA Lender prior to the Effective Date, and no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(m) No Defaults. The Borrower is not in default under the terms of any Related Document, and no event has occurred or condition exists that, with the giving of notice or the passage of time or both, would constitute an Event of Default.

(n) Governmental Approvals. All Governmental Approvals required as of the Effective Date and any subsequent date on which this representation is made (or deemed made) for the undertaking and completion of the Project, and for the operation and management thereof, have been obtained or effected by the Borrower Related Parties and are in full force and effect and there is no basis for, nor proceeding that is pending or threatened that could reasonably be expected to result in, the revocation of any such Governmental Approval.

(o) Principal Project Contracts. The Borrower Related Parties have delivered to the TIFIA Lender a fully executed, complete, and correct copy of each Principal Project Contract, and each Additional Project Contract required to be delivered to, or requested by, the TIFIA Lender pursuant to Section 16(b) (*Copies of Documents*) (including, in each case, all

exhibits, schedules and other attachments) that is in effect, including any amendments or modifications thereto and any related credit support instruments or side letters. No event has occurred that gives the Borrower or, to the Borrower's knowledge, any Principal Project Party, the right to terminate any Principal Project Contract. The Borrower is not in breach of any material term in or in default under any Principal Project Contract, and to the knowledge of the Borrower, no party to any Principal Project Contract is in breach of any material term therein or in default thereunder.

(p) Information. The information furnished by the Borrower to the TIFIA Lender, when taken as a whole, does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein not misleading as of the date made or furnished; provided that no representation or warranty is made with regard to projections or other forward-looking statements provided by or on behalf of the Borrower (including the Base Case Financial Model, any Revised Financial Model, and the assumptions therein) except that the assumptions in the Base Case Financial Model and any Revised Financial Model were reasonable in all material respects when made.

(q) OFAC; Anti-Corruption Laws. None of the Borrower, nor, to the knowledge of the Borrower, any Principal Project Party:

(i) is in violation of or, since the date that is five (5) years prior to the Effective Date, has violated: (A) any applicable anti-money laundering laws, including those contained in the Bank Secrecy Act and the Patriot Act; (B) any applicable economic sanction laws administered by OFAC or by the United States Department of State; or (C) any applicable anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal; or

(ii) is a Person (A) that is charged with, or has received notice from a Governmental Authority that it is under investigation for, any violation of any such laws; (B) that has been, since the date that is five (5) years prior to the Effective Date, convicted of any violation of, has been subject to criminal or civil penalties pursuant to, had any of its property seized or forfeited under, or has entered into any agreement with the Government or a state or local government related to violations of any such laws; (C) that is named on the list of "Specially Designated Nationals and Blocked Persons" maintained by OFAC (or any successor Government office or list), or any similar list maintained by the United States Department of State (or any successor Government office or list); (D) with whom any U.S. Person (as defined by the applicable OFAC regulations) is prohibited from transacting business of the type contemplated by this Agreement and the other Related Documents under any other applicable law; or (E) with respect to a Principal Project Party, that is owned (other than any Person beneficially owning or holding five percent (5%) or less of the equity interests of such Principal Project Party), Controlled by, or affiliated with any Person identified in clause (A), (B), (C) or (D) of this clause (ii).

(r) Compliance with Laws. The Borrower is in compliance in all material respects with, and has conducted (or caused to be conducted) its government functions, public transit operations and the implementation of the Project in compliance in all material respects

with, all applicable laws (other than Environmental Laws, which are addressed in Section 14(s) (*Environmental Matters*)), including those set forth in **Exhibit E** and the FTA Master Agreement. To the Borrower's knowledge, each Principal Project Party is, and has caused its respective contractors and subcontractors to be, in compliance in all material respects with all applicable laws in respect of the Project, including those set forth in **Exhibit E** and the FTA Master Agreement that flow down to third-party contractors. No notices of violation of any applicable law have been issued, entered or received by the Borrower or, to the Borrower's knowledge and solely in respect of the Project or any Principal Project Contract, any Principal Project Party, other than, in each case, notices of violations that are immaterial.

(s) Environmental Matters. The Borrower and, to the Borrower's knowledge, each Principal Project Party is in material compliance with all laws applicable to the Project relating to (i) air emissions, (ii) discharges to surface water or ground water, (iii) noise emissions, (iv) solid or liquid waste disposal, (v) the use, generation, storage, transportation or disposal of toxic or hazardous substances or wastes, (vi) biological resources (such as threatened and endangered species), and (vii) other environmental, health or safety matters, including all laws applicable to the Project referenced in the notice "Federal Environmental Statutes, Regulations, and Executive Orders Applicable to the Development and Review of Transportation Infrastructure Projects," 79 Fed. Reg. 22756 (April 23, 2014) (or any successor Federal Register notice of similar import), which document is available at <http://www.transportation.gov/policy/transportation-policy/environment/laws> ("**Environmental Laws**"). All Governmental Approvals for the Project relating to Environmental Laws have been, or, when required, will be, obtained by the Borrower Related Parties and are (or, as applicable, will be) in full force and effect. Except for all communications and notices that the Borrower has reasonably and in good faith determined to be either (A) without merit or (B) not expected to result in a Material Adverse Effect, the Borrower has not received any written communication or notice, whether from a Governmental Authority, employee, citizens group, or any other Person, that alleges that the Borrower or another Borrower Related Party is not in full compliance with all Environmental Laws and Governmental Approvals relating to or in connection with the Project and, to the Borrower's knowledge, there are no circumstances that may prevent or interfere with full compliance in the future by the Borrower or any other Borrower Related Party with any such Environmental Law or Governmental Approval. The Borrower has provided to the TIFIA Lender all material assessments, reports, results of investigations or audits, and other material information in the possession of or reasonably available to the Borrower regarding the Borrower's or the Project's compliance with (A) Environmental Laws, and (B) Governmental Approvals relating to Environmental Laws that are required for the Project.

(t) Insurance. **Schedule 14(t)** lists all insurance policies of any nature maintained by each Borrower Related Party with respect to the Project, as well as a summary of the terms of each such policy. The Borrower is in material compliance with all insurance obligations required under each Principal Project Contract to which it is a party and the other Related Documents as of the date on which this representation and warranty is made.

(u) Title. The Borrower has valid legal and beneficial title to the Pledged Revenues and the Trust Estate on which it purports to grant Liens pursuant to the Indenture Documents, in each case free and clear of any Lien of any kind, except for Permitted Liens.

(v) No Liens. Except for Permitted Liens, the Borrower has not created, and is not under any obligation to create, and has not entered into any transaction or agreement that would result in the imposition of, any Lien on the Trust Estate, the Project, the Pledged Revenues, or the properties or assets in relation to the Project.

(w) Investment Company Act. The Borrower is not, and after applying the proceeds of the TIFIA Loan will not be, required to register as an “investment company” within the meaning of the Investment Company Act of 1940, as amended, and is not “controlled” by a company required to register as an “investment company” under the Investment Company Act of 1940, as amended.

(x) Financial Statements. Each statement of revenues, expenditures, and changes in fund balances, balance sheet, and statement of cash flows (collectively, “**Financial Statements**”) delivered to the TIFIA Lender pursuant to Section 22(d) (*Financial Statements*) has been prepared in accordance with GAAP and presents fairly, in all material respects, the financial condition of the Borrower as of the respective dates of the balance sheets included therein and the cash flows of the Borrower for the respective periods covered by the statement of revenues, expenditures, and changes in fund balances included therein. Except as reflected in such Financial Statements, there are no liabilities or obligations of the Borrower of any nature whatsoever for the period to which such Financial Statements relate that are required to be disclosed in accordance with GAAP.

(y) Taxes. The Borrower is not required to file tax returns with any Governmental Authority.

(z) ERISA. Neither the Borrower nor any ERISA Affiliate maintains or otherwise has any liability in respect of any plan or other arrangement that is subject to ERISA or Section 412 of the Code.

(aa) Sufficient Funds. The aggregate of (i) all funds that are undrawn but fully and completely committed, or reasonably expected to be available, under the Indenture Documents, the FFGA, and this Agreement, (ii) all delay payments and insurance proceeds in respect of any casualty loss (other than any proceeds of business interruption insurance, delay-in-start-up insurance and proceeds covering liability of any Borrower Related Party to third parties) received by any Borrower Related Party or to which any Borrower Related Party is entitled in accordance with the applicable insurance policies and Principal Project Contracts, and (iii) all funds available under any other unused funding that is committed and available, will be sufficient to pay all Total Project Costs necessary to achieve Substantial Completion.

(bb) Sovereign Immunity. Under the laws of the State, neither the Borrower nor the Pledged Revenues are exempt or immune from, whether on the basis of sovereign immunity or any similar legal or equitable principle, doctrine or rule of law and whether now or at any time hereafter arising, (1) jurisdiction, (2) liability, suit or other legal or equitable remedy for the amounts due and payable under the Secured Obligations, this Agreement or any of the other Related Documents or the performance of any of its other obligations hereunder or thereunder, or (3) enforcement of any judgment, order or decree to which the Borrower or the Pledged Revenues may be made subject, except in each case as provided in Sections 970 *et seq.*

of the California Government Code, which provides that the traditional forms of enforcement of a money judgment under Title 9 of the California Code of Civil Procedure (e.g., attachment, garnishment and execution) are not available to enforce a judgment against a local governmental entity, and further provides that a writ of mandate is the appropriate remedy to compel the local governmental entity to satisfy a judgment.

(cc) Patriot Act. The Borrower is not required to establish an anti-money laundering compliance program pursuant to the Patriot Act.

(dd) No Proposed Legal Changes. There is no amendment or, to the knowledge of the Borrower, no proposed amendment certified for placement on a statewide or local ballot, to the Indenture Documents or any legislation that has passed, or any published judicial decision interpreting any of the foregoing, which could reasonably be expected to result in a Material Adverse Effect.

Section 15. Representations and Warranties of TIFIA Lender. The TIFIA Lender represents and warrants that:

(a) Power and Authority. The TIFIA Lender has all requisite power and authority to make the TIFIA Loan and to perform all transactions contemplated by the Related Documents to which it is a party.

(b) Due Execution; Enforceability. The Related Documents to which it is a party have been duly authorized, executed and delivered by the TIFIA Lender, and are legally valid and binding agreements of the TIFIA Lender, enforceable in accordance with their terms.

(c) Officers' Authorization. The officers of the TIFIA Lender executing each of the Related Documents to which the TIFIA Lender is a party are duly and properly in office and fully authorized to execute the same on behalf of the TIFIA Lender.

Section 16. Affirmative Covenants. The Borrower covenants and agrees as follows until the date the TIFIA Bond and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in cash and the TIFIA Lender no longer has any commitment to make disbursements to the Borrower, unless the TIFIA Lender waives compliance in writing:

(a) Securing Liens. The Borrower shall at any and all times, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable in connection with assuring, conveying, granting, assigning, securing and confirming the TIFIA Lien in and to the Trust Estate (whether now existing or hereafter arising) granted to the Trustee for the benefit of the TIFIA Lender pursuant to the Indenture Documents, or intended so to be granted pursuant to the Indenture Documents, or which the Borrower may become bound to grant, and the Borrower shall at all times maintain the Trust Estate free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto that has priority over, or equal rank with, the Liens created by the Indenture Documents, other than as permitted by this Agreement, and all organizational, regulatory or other necessary action on the part of the Borrower to that end shall be duly and validly taken at all times. The Borrower shall at all times,

to the extent permitted by law, defend, preserve and protect the Liens on the Trust Estate granted pursuant to the Indenture Documents and all the rights of the Trustee for the benefit of the TIFIA Lender under the Indenture Documents against all claims and demands of all Persons whomsoever, subject to the Lien of the Indenture.

(b) Copies of Documents. The Borrower shall furnish to the TIFIA Lender a copy of any offering document and cash flow projections prepared in connection with the incurrence of any Permitted Debt, prior to the incurrence of any such Permitted Debt, as well as copies of any offering documents, prepared by or on behalf of the Borrower in connection with the incurrence of such Permitted Debt, in each case promptly following the preparation or filing thereof. The Borrower shall provide written notice to the TIFIA Lender of the Borrower's or SANDAG's intent to enter into an Additional Project Contract and shall provide drafts of any such Additional Project Contracts at least thirty (30) days prior to the proposed effective date thereof, together with any related contracts, side letters or other understandings. The Borrower shall provide to the TIFIA Lender, promptly after execution thereof, a copy of each Additional Project Contract.

(c) Use of Proceeds. The Borrower shall use the proceeds of the TIFIA Loan for purposes permitted by applicable law and as otherwise permitted under this Agreement and the other Related Documents.

(d) Verification Requirements. The Borrower shall comply with the verification requirements set forth in 2 C.F.R. §§ 180.300 and 180.320.

(e) Reserved.

(f) Insurance. The Borrower Related Parties shall at all times, through a combination of insurance policies and self-insurance programs, maintain or cause its contractors to maintain, all insurance necessary and sufficient to protect the Project and the Borrower Related Parties against accidental loss or damage while under construction and during subsequent periods of operation and maintenance, as is customarily maintained by the Borrower Related Parties with respect to works and properties of like character, against accident to, loss of, damage to and liability from such works or properties.

(g) Notice.

(i) The Borrower shall, within ten (10) Business Days after the Borrower learns of the occurrence, give the TIFIA Lender notice of any of the following events or receipt of any of the following notices, as applicable, setting forth details of such event:

(A) Substantial Completion: the occurrence of Substantial Completion, such notice to be provided in the form set forth in **Exhibit L**;

(B) Events of Default: any Event of Default or any event that, with the giving of notice or the passage of time or both, would constitute an Event of Default;

(C) Litigation: (1) the filing of any litigation, suit or action, or the commencement of any proceeding against the Borrower before any arbitrator, Governmental Authority, alternative dispute resolution body, or other neutral third-party, or the receipt by the Borrower in writing of any threat of litigation, suit, action, or proceeding, or of any written claim against the Borrower that, in each case, could reasonably be expected to have a Material Adverse Effect, and any material changes in the status of such litigation, suit, action or claim, and (2) any unsatisfied or uninsured judgments against the Borrower with award amounts in excess of \$100,000,000, either individually or in the aggregate;

(D) Delayed Governmental Approvals: any failure to receive or delay in receiving any Governmental Approval or making any required filing, notice, recordation or other demonstration to or with a Governmental Authority, in each case to the extent such failure or delay will or could reasonably be expected to result in a delay to any major milestone date (including the Projected Substantial Completion Date) set forth in the Construction Schedule, together with a written explanation of the reasons for such failure or delay and the plans of the Borrower Related Parties to remedy or mitigate the effects of such failure or delay;

(E) Environmental Notices: any material notice of violation under any Environmental Law related to the Project or any material changes to the NEPA Determination;

(F) Insurance Claim: any insurance claims made by the Borrower or any Principal Project Party in respect of the Project in excess of \$80,000,000 either individually or in the aggregate;

(G) Amendments: except as otherwise agreed by the TIFIA Lender in writing, copies of (1) any proposed amendments to any Indenture Documents at least thirty (30) days prior to the effective date thereof and (2) fully executed amendments within ten (10) days following execution thereof;

(H) Principal Project Contract Defaults: any material breach or default or event of default on the part of any party under any Principal Project Contract;

(I) Uncontrollable Force: the occurrence of any Uncontrollable Force that could reasonably be expected to result in a Material Adverse Effect;

(J) Project Changes: any (1) change to the Total Project Costs forecasts in excess of five percent (5%) of Total Project Costs or (2) change to the Construction Schedule that delays completion of a critical path item for the Project or that could delay Substantial Completion by the Projected Substantial Completion Date;

(K) Ratings Changes: any change in the ratings assigned to the Senior Bonds, the TIFIA Loan, or any Subordinate Obligations by any Nationally Recognized Rating Agency that has provided a public rating on such indebtedness, the Borrower, or the Sales Tax Revenues;

(L) 2 C.F.R. § 180.350 Notices: any notification required pursuant to 2 C.F.R. § 180.350, whether attributable to a failure by the Borrower to disclose information previously required to have been disclosed or due to the Borrower or any of its principals meeting any of the criteria set forth in 2 C.F.R. § 180.335;

(M) Documents: the delivery or receipt, by the Borrower, of any material plans, reports or notices under the Related Documents, unless the TIFIA Lender notifies the Borrower that any of such plans, reports or notices no longer need to be provided; provided, however, that, with respect to the Indenture Documents, the Borrower shall be required under this clause (M) to notify the TIFIA Lender only of the delivery or receipt of material notices thereunder;

(N) Legislative and Judicial Action or Voter Initiative: the proposal or initiation of any legislative or voter initiative or judicial action the result of which would (1) amend or otherwise alter the Sales Tax Act to (x) increase or decrease the retail transactions and use tax imposed in pursuant thereof or (y) cause the tax imposed by the Sales Tax Act to expire or otherwise terminate prior to March 31, 2048 or (2) amend or repeal the constitutional or statutory authority of any Borrower Related Party to operate under State law, provided, however, that such notice shall be provided prior to the legislative or judicial action or voter initiative; and

(O) Other Adverse Events: the occurrence of any other event or condition, including any notice of breach from a contract counterparty, that could reasonably be expected to result in a Material Adverse Effect.

(ii) Borrower shall provide a copy of any legislation proposing that the Borrower be reorganized, consolidated with, or merged into another Person, within fifteen (15) Business Days of the introduction of such legislation to the California State Assembly or State Senate.

(iii) The Borrower shall, within ten (10) Business Days of each Calculation Date, provide the TIFIA Lender and the Trustee with a Certificate signed by the Borrower's Authorized Representative demonstrating (A) the Debt Service Coverage Ratio for the Calculation Period most recently ended and (B) whether or not a TIFIA Reserve Event has occurred.

(iv) The Borrower shall provide the TIFIA Lender with any further information reasonably requested by the TIFIA Lender from time to time concerning the matters described in Section 16(g)(i) (*Notice*).

(h) Remedial Action. Within thirty (30) calendar days after the Borrower learns of the occurrence of an event specified in Section 16(g)(i) (*Notice*) (other than in Section 16(g)(i)(A) (*Substantial Completion*), Section 16(g)(i)(G) (*Amendments*), or Section 16(g)(i)(K) (*Ratings Changes*) (in the case of a ratings upgrade)), the Borrower's Authorized Representative shall provide a statement to the TIFIA Lender setting forth the actions the Borrower Related Parties propose to take with respect thereto.

(i) Maintain Legal Structure. The Borrower shall maintain its existence as a public entity, established and existing under the laws of the State.

(j) Annual Rating. The Borrower shall, commencing in 2018, no later than the last Business Day of June of each year during the term of the TIFIA Bond, at no cost to the TIFIA Lender, provide to the TIFIA Lender (i) public ratings on the TIFIA Bond by two Nationally Recognized Rating Agencies, together with the rating report or letter delivered by such Nationally Recognized Rating Agencies in connection with each such rating, and (ii) the existing ratings on any outstanding Senior Bonds, in each case prepared no earlier than June 1 of such year.

(k) Funds and Accounts; Permitted Investments; TIFIA Reserve Event.

(i) In accordance with the provisions of the applicable Indenture Documents and this Agreement, the Borrower shall maintain the TIFIA Reserve Fund in an amount equal to the TIFIA Reserve Fund Requirement. Amounts in the TIFIA Reserve Fund shall be applied to ensure the timely payment of TIFIA Debt Service on the TIFIA Bond.

(ii) On the first Business Day of each month (A) after notice of the occurrence of a TIFIA Reserve Event has been delivered in accordance with Section 16(g)(iii) (*Notice*) and (B) during any period in which the TIFIA Reserve Fund is required to be funded, the Borrower shall transfer to the TIFIA Reserve Fund the amount of Pledged Revenues available as of the end of the immediately preceding month after making the transfers described in paragraphs *First* through *Seventh* in Section 8(c) (*Security and Priority; Flow of Funds*) until the balance in the TIFIA Reserve Fund is equal to the TIFIA Reserve Fund Requirement.

(iii) If, after the occurrence of a TIFIA Reserve Event, the Borrower delivers to the TIFIA Lender certificates pursuant to Section 22(d) (*Financial Statements*) on four (4) consecutive Calculation Dates showing that the Debt Service Coverage Ratio for the Calculation Period preceding each such Calculation Date was not less than 1.35 to 1.00 and projecting that the Debt Service Coverage Ratio will not be less than 1.35 to 1.00 for the next four (4) consecutive Calculation Dates, the Borrower may, upon written notice to the TIFIA Lender at least ten (10) Business Days in advance, release any balance in the TIFIA Reserve Fund to the Borrower; provided that, if the duration of the TIFIA Reserve Event was longer than twenty four (24) months, then (A) any amounts on deposit in the TIFIA Reserve Fund shall remain therein for a period at least as long as the duration of the TIFIA Reserve Event and (B) the Borrower must deliver the certificates required by Section 22(d) (*Financial Statements*) on each Calculation Date during such

period showing that the Debt Service Coverage Ratio for the preceding Calculation Period.

(iv) The Borrower shall cause the Bond Reserve Fund to be funded in such amounts and under such conditions as are required by this Agreement and the Indenture Documents.

(v) Amounts on deposit in the TIFIA Reserve Fund or the TIFIA Debt Service Account shall be held uninvested or invested in Permitted Investments. Permitted Investments must mature or be redeemable at the election of the holder as follows: (A) with respect to Permitted Investments maintained in the TIFIA Reserve Fund, not later than the next Semi-Annual Payment Date, (B) with respect to Permitted Investments maintained in the TIFIA Debt Service Account corresponding to amounts needed for the payment of interest, not later than the next Semi-Annual Payment Date, and (C) with respect to Permitted Investments maintained in the TIFIA Debt Service Account corresponding to amounts needed for the repayment of principal, the next Payment Date for repayment of principal in respect of such debt.

(vi) The Borrower may replace all or a portion of the required balance of the TIFIA Reserve Fund, in accordance with the terms of the applicable Indenture Documents, with a Credit Enhancement provided by a financial institution with an Acceptable Credit Rating. If at any time an issuer of a Credit Enhancement securing the TIFIA Reserve Fund ceases to have an Acceptable Credit Rating, the Borrower shall cause such Credit Enhancement to be replaced by a new Credit Enhancement within thirty (30) Business Days of the date on which the current issuer ceased to have an Acceptable Credit Rating, or the Trustee shall be permitted to immediately draw the full amount of such letter of credit and deposit the proceeds of such drawing into the TIFIA Reserve Fund. Any new Credit Enhancement shall have the same terms and conditions (including expiration date and face amount) as the letter of credit being replaced, or such other terms and conditions as may be satisfactory to the TIFIA Lender. If any letter of credit securing the TIFIA Reserve Fund is scheduled to expire prior to the Final Maturity Date, the Borrower shall replace such letter of credit with a new Credit Enhancement at least ten (10) Business Days prior to the stated expiry date of the existing letter of credit and such new Credit Enhancement shall be in an amount equal to at least the amount of expiring letter of credit. If the Borrower fails to provide such new Credit Enhancement by the date required above, the Trustee shall be permitted to immediately draw the full undrawn amount of the existing letter of credit and deposit the proceeds of such drawing into the TIFIA Reserve Fund.

(l) Compliance with Laws. The Borrower shall comply in all material respects with all applicable material federal and State laws, including (i) all items set forth in **Exhibit E**, to the extent applicable, and (ii) the terms and conditions of the FTA Master Agreement and the FFGA.

(m) Material Obligations; Liens. The Borrower shall pay its material obligations promptly and in accordance with their terms and pay and discharge promptly all taxes, assessments and governmental charges or levies imposed upon it or upon the Pledged

Revenues or the Borrower's other income or profits or in respect of its property, before the same shall become delinquent or in default, as well as all lawful and material claims for labor, materials and supplies or other claims which, if unpaid, might give rise to a Lien upon such properties or any part thereof or on the Pledged Revenues or the Trust Estate; provided, however, that such payment and discharge shall not be required with respect to any such tax, assessment, charge, levy, claim or Lien so long as the validity or amount thereof shall be contested by the Borrower in good faith by appropriate proceedings and so long as the Borrower shall have set aside adequate reserves with respect thereto in accordance with and to the extent required by GAAP, applied on a consistent basis.

(n) Hedging.

(i) The Borrower is required to have in effect an Interest Rate Swap Agreement with respect to any Variable Interest Rate Secured Obligation Outstanding as of the Effective Date. Any Variable Interest Rate Secured Obligation issued after the Effective Date may be the subject of an Additional Interest Rate Swap Agreement. The Borrower may elect to not enter into an Additional Interest Rate Swap Agreement with respect to Variable Interest Rate Secured Obligations issued after the Effective Date, so long as the issuance of such debt satisfies the additional debt requirements in Section 17(a) (*Indebtedness*), assuming for such purposes that the interest rate for such Variable Interest Rate Secured Obligations is twelve percent (12%) per annum. Any such Additional Interest Rate Swap Agreement shall have a stated maturity or termination date not earlier than the (x) the Final Maturity Date and (y) the final maturity date of the Variable Interest Rate Secured Obligations subject to such Additional Interest Rate Swap Agreement. Each Additional Interest Rate Swap Agreement and Subsequent Interest Rate Swap Agreement must have an aggregate stated notional amount of not less than (A) during the Construction Period, at least ninety percent (90%) and not more than one hundred ten percent (110%) of the aggregate principal amount of the Variable Interest Rate Secured Obligations projected to be outstanding during such time period and (B) at all other times, at least ninety-eight percent (98%) and not more than one hundred two percent (102%) of the aggregate principal amount of the Variable Interest Rate Secured Obligations projected to be outstanding until the maturity of such Variable Interest Rate Secured Obligations. Each Additional Interest Rate Swap Agreement and Subsequent Interest Rate Swap Agreement shall have a payment profile that is reasonably consistent with the expected draw and repayment schedule of the applicable Variable Interest Rate Secured Obligations subject to such swap agreement.

(ii) Each Additional Interest Rate Swap Agreement or Subsequent Interest Rate Swap Agreement shall provide for a fixed interest rate resulting in fixed payment amounts payable by the Borrower to the Qualified Counterparty.

(iii) The Borrower's obligations to pay Hedging Obligations and Hedging Termination Obligations on the Additional Interest Rate Swap Agreements and Subsequent Interest Rate Swap Agreement shall be from the sources and in the priority specified in the Indenture Documents. For the avoidance of doubt, the Borrower's obligations to pay (x) Hedging Obligations shall be made from amounts on deposit in the Interest Fund, (y) Hedging Termination Obligations on the Existing Interest Rate Swap

Agreements shall be made from amounts on deposit in the Existing Hedging Termination Obligations Fund, senior to the payment of Junior Subordinate Obligations, and (z) Hedging Termination Obligations on the Additional Interest Rate Swap Agreements and Subsequent Interest Rate Swap Agreements shall be made from amounts on deposit in the Other Hedging Termination Obligations Fund, subordinated to the payment of the Junior Subordinate Obligations.

(iv) Any Existing Interest Rate Swap Agreement or Additional Interest Rate Swap Agreement that is replaced, amended or novated after the Effective Date shall be a “**Subsequent Interest Rate Swap Agreement**”; provided, that an Existing Interest Rate Swap Agreement shall remain such and shall not be considered a Subsequent Interest Rate Swap Agreement if such Existing Interest Rate Swap Agreement is amended only to revise the notational amount thereof in connection with a partial refunding or prepayment of the Senior Bonds associated therewith. Each Subsequent Interest Rate Swap Agreement shall (A) be with a Qualified Counterparty, (B) commence no later than the date of amendment, novation or replacement of the Interest Rate Swap Agreement that is being amended, novated or replaced (in whole or in part) and (C) terminate no earlier than the earlier to occur of (1) the Final Maturity Date and (2) the final maturity date of the Variable Interest Rate Secured Obligations subject to such Subsequent Interest Rate Swap Agreement.

(v) The Borrower shall not commence seeking any bids from any Qualified Counterparty for an Additional Interest Rate Swap Agreement or a Subsequent Interest Rate Swap Agreement unless, at least thirty (30) days prior thereto, the Borrower has delivered to the TIFIA Lender evidence satisfactory to the TIFIA Lender and certified by the Borrower’s Authorized Representative that the process to be utilized by the Borrower for selecting such Additional Interest Rate Swap Agreement or Subsequent Interest Rate Swap Agreement is a competitive process designed to obtain a fair market price and to avoid conflicts of interest. At the time the Additional Interest Rate Swap Agreement or Subsequent Interest Rate Swap Agreement is priced, the Borrower shall provide to the TIFIA Lender a certificate from a qualified third party acceptable to the TIFIA Lender to the effect that either the underlying LIBOR based fixed rate or the price of acquiring such Additional Interest Rate Swap Agreement or Subsequent Interest Rate Swap Agreement is a fair price based on the interest rate market at the time such Additional Interest Rate Swap Agreement or Subsequent Interest Rate Swap Agreement is priced.

(vi) The Trustee shall be granted a security interest in each Interest Rate Swap Agreement and payments due under each Interest Rate Swap Agreement in order to secure the Borrower’s obligations under the TIFIA Loan Documents. The Interest Rate Swap Agreements shall provide that all payments due thereunder to the Borrower shall be made directly to the Trustee for deposit and disbursement in accordance with the Indenture Documents.

(vii) As long as the Borrower is required to maintain Interest Rate Swap Agreements pursuant to this Agreement, the Borrower shall neither terminate (other than Permitted Hedging Terminations), transfer, nor consent to any transfer of (other than to a

Qualified Counterparty) any Interest Rate Swap Agreement without the prior written consent of the TIFIA Lender.

(viii) If at any time a Qualified Counterparty no longer satisfies the requirements for a Qualified Counterparty, the Borrower shall, within thirty (30) days (or such lesser number of days required by the applicable Interest Rate Swap Agreement, including any credit support annex thereto) of the date on which such counterparty failed to qualify as a Qualified Counterparty, either (A) cash collateralize the mark-to-market value of the Hedging Termination Obligations (in accordance with the credit support annex or similar requirements of the applicable Interest Rate Swap Agreement) or provide a guarantee for such amount from an entity with an Acceptable Credit Rating, or (B) cause such disqualified counterparty to be replaced by a Qualified Counterparty, whether by means of a transfer of the disqualified counterparty's Interest Rate Swap Agreement to a Qualified Counterparty or by means of a termination of such disqualified counterparty's Interest Rate Swap Agreement and replacement thereof by an Interest Rate Swap Agreement with a Qualified Counterparty on terms and conditions that satisfy the requirements of this Section 16(n) (*Hedging*); provided that if the disqualified counterparty's highest credit rating from any Nationally Recognized Rating Agency is less than 'A-', 'A3' or the equivalent, clause (A) shall not apply and the Borrower shall be required to cause such disqualified counterparty to be replaced by a Qualified Counterparty pursuant to clause (B).

(o) SAM Registration. The Borrower shall (i) maintain its active registration status with the federal System for Award Management (www.SAM.gov) (or any successor system or registry) and (ii) within sixty (60) days prior to each anniversary of the Effective Date, provide to the TIFIA Lender evidence of such active registration status with no active exclusions reflected in such registration, in each case until the Final Maturity Date or to such earlier date as all amounts due or to become due to the TIFIA Lender hereunder have been irrevocably paid in full in cash.

(p) Immunity. To the fullest extent permitted by applicable law, the Borrower agrees that it will not assert any immunity (and hereby waives any such immunity) it may have as a governmental entity from lawsuits, other actions and claims, and any judgments with respect to the enforcement of any of the obligations of the Borrower under this Agreement or any other TIFIA Loan Document.

(q) Patriot Act. If the anti-money laundering compliance program provisions of the Patriot Act become applicable to the Borrower, then the Borrower will provide written notice to the TIFIA Lender of the same and will promptly establish an anti-money laundering compliance program that complies with applicable requirements of the Patriot Act.

(r) Cargo Preference Act. Pursuant to 46 C.F.R. Part 381, the Borrower hereby agrees as follows, and shall insert the following clauses in contracts entered into by the Borrower pursuant to which equipment, materials or commodities may be transported by ocean vessel in carrying out the Project:

(i) at least fifty percent (50%) of any equipment, materials or commodities procured, contracted for or otherwise obtained with TIFIA Loan proceeds, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available; and

(ii) within twenty (20) days following the date of loading for shipments originating within the United States or within thirty (30) Business Days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (i) above shall be furnished to both the TIFIA Lender and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

(s) Lobbying. The Borrower shall comply with all applicable certification, declaration and/or disclosure requirements under 49 C.F.R. Part 20.

Section 17. Negative Covenants. The Borrower covenants and agrees as follows until the date the TIFIA Bond and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in cash, unless the TIFIA Lender waives compliance in writing:

(a) Indebtedness.

(i) Except for Permitted Debt that satisfies the requirements of this Section 17(a) (*Indebtedness*), the Borrower shall not issue or incur indebtedness secured by Pledged Revenues without the prior written consent of the TIFIA Lender.

(ii) In order to issue any Secured Obligations (except for issuance, reissuance or rolls of commercial paper initially authorized prior to the Effective Date) under the Indenture, the Borrower shall, prior to the issuance of thereof provide the Trustee and the TIFIA Lender with a certificate of the Borrower's Authorized Representative, certifying that:

(A) upon issuance of such Secured Obligations, the Sales Tax Revenues collected during any twelve (12) consecutive calendar months specified by the Borrower within the most recent eighteen (18) calendar months immediately preceding the date of issuance of such Secured Obligation shall be at least equal to 1.15 times the maximum amount of Debt Service becoming due and payable on all Secured Obligations Outstanding (and, as applicable, to be Outstanding) in any Borrower Fiscal Year during the period from the Calculation Date through the Final Maturity Date;

(B) (1) no Event of Default has occurred hereunder or under any of the Indenture Documents and (2) no event has occurred which with the passage of time or the delivery of notice will become an Event of Default hereunder or under any of the Indenture Documents;

(C) if such Secured Obligations are Senior Obligations, the Borrower has complied with the requirements for issuance of additional Senior Obligations set forth in Sections 3.02 and 3.03, as applicable, of the Indenture;

(D) if such Secured Obligations are Subordinate Obligations, the Borrower has complied with the requirements for issuance of additional Subordinate Obligations set forth in Section 3.05(d) of the Indenture and Section 3.03 and 3.04, as applicable, of the Subordinate Indenture; and

(E) if such Secured Obligations are Subordinate Obligations issued as commercial paper notes, such commercial paper notes shall be secured and payable pursuant to an Additional Credit Enhancement.

(iii) In addition, prior to the issuance of any Secured Obligations (other than Secured Obligations issued or incurred for purposes of refunding in compliance with the requirements for the issuance of refunding bonds set forth in Section 3.04 of the Indenture or Section 3.05 of the Subordinate Indenture), the Borrower shall certify to the Trustee and the TIFIA Lender that the TIFIA Bond is rated at least “A-” or “A3” and that the issuance of such Secured Obligations will not, in and of itself, result in its downgrade below “A-” or “A3” or withdrawal of the then-existing credit rating of the TIFIA Bond, as confirmed by the Nationally Recognized Rating Agency that provided the most recent public rating of the TIFIA Bond in accordance with Section 16(j) (*Annual Rating*).

(b) No Lien Extinguishment or Adverse Amendments. The Borrower shall not, and shall not permit any Person to, without the prior written consent of the TIFIA Lender, either (i) extinguish or impair the Liens on the Trust Estate granted pursuant to the Indenture, (ii) amend, modify, replace, or supplement any Related Document in a manner that could adversely affect the TIFIA Lender (in the TIFIA Lender’s determination) in connection with the TIFIA Loan, (iii) waive or permit a waiver of any provision of any Related Document in a manner that could adversely affect the TIFIA Lender (in the TIFIA Lender’s determination) in connection with the TIFIA Loan, (iv) terminate, assign, amend or modify, or waive timely performance by any party of material covenants under any Principal Project Contract except for termination, assignment, amendment, modification or waiver that could not reasonably be expected to have a Material Adverse Effect (in the TIFIA Lender’s determination), (v) except as otherwise expressly permitted in this Agreement, take any action, or fail to take any action, which would have the effect of reducing the ½ cent rental transactions and use tax imposed by the Sales Tax Act and the Ordinance or cause the expiration of that tax to occur prior to March 31, 2048, or (vi) provide for the acceleration of any Secured Obligations (for the avoidance of doubt, swap termination payments and term-outs of Secured Obligations that occur in accordance with the terms of such Secured Obligations shall not be considered acceleration). Except as otherwise agreed by the TIFIA Lender in writing, the Borrower will provide to the TIFIA Lender (x) copies of any proposed amendments, modifications, replacements of, or supplements to any Related Document at least thirty (30) days prior to the effective date thereof, and (y) complete, correct and fully executed copies of any amendment, modification or supplement to any Related Document within five (5) Business Days after execution thereof.

(c) No Prohibited Liens. Except for Permitted Liens, the Borrower shall not create, incur, assume or permit to exist any Lien on the Trust Estate, the Pledged Revenues, or the Borrower's respective rights therein.

(d) Reserved.

(e) Additional Project Contracts. The Borrower shall not, nor permit any Borrower Related Party to, without the prior written consent of the TIFIA Lender, enter into any Additional Project Contract (or series of related contracts) that commits the Borrower or SANDAG to spend, or is reasonably expected to involve expenditures by the Borrower or SANDAG of, amounts that either: (i) exceed \$10,000,000 in any Borrower Fiscal Year, or (ii), alone or when aggregated with the other Total Project Costs in the same line item of the applicable budget set forth in the Financial Plan most recently approved by the TIFIA Lender, would cause aggregate Total Project Costs for such line item in any Borrower Fiscal Year to exceed the amounts for such line item for any Borrower Fiscal Year reflected in the budget in the Financial Plan most recently approved by the TIFIA Lender by more than five percent (5%).

(f) No Prohibited Sale, Lease or Assignment. Except to a Borrower Related Party, the Borrower shall not, nor provide consent to any Borrower Related Party to, sell, lease or assign its rights in and to the Project, a substantial portion of the assets included in the Project, or its rights and obligations under any Related Document, in each case unless such sale, lease or assignment could not reasonably be expected to result in a Material Adverse Effect.

(g) Organizational Documents; Fiscal Year. The Borrower shall not at any time (i) propose an amendment to or modification of the constitutional and statutory provisions that are the basis for its existence and authority (other than any amendment or modification that is of a ministerial nature and that is not adverse to the interests of any Secured Party under the Indenture or in the Trust Estate) without the prior written consent of the TIFIA Lender, or (ii) adopt any fiscal year other than the Borrower Fiscal Year, except with thirty (30) days' prior written notice to the TIFIA Lender.

(h) Transactions with other Governmental Authorities. Except for the transactions expressly contemplated in the TIFIA Loan Documents, the Borrower shall not, nor permit any other Borrower Related Party to, (i) sell or transfer any property or assets constituting part of the Project to, or purchase or acquire any property or assets of, any other Governmental Authority, or (ii) otherwise engage in any other transactions in connection with the Project with, any other Governmental Authority (including any other Governmental Authority of or in the State) the terms and provisions of which are materially adverse to any Borrower Related Party or the Project or, in either case, that could reasonably be expected to result in a Material Adverse Effect.

(i) No Payment with Federal Funds. The Borrower shall not pay any portion of TIFIA Debt Service nor any other amount to the TIFIA Lender or the Government pursuant to the TIFIA Loan Documents with funds received directly or indirectly from the Government.

(j) Change in Legal Structure; Mergers and Acquisitions. The Borrower shall not, and shall not agree to reorganize, consolidate with, or merge into another Person, unless (i)

such Person is a successor public authority created by State law that succeeds to the assets of the Borrower and assumes the obligations of the Borrower hereunder and under the Related Documents to which the Borrower is a party, including payment of the TIFIA Bond and (ii) such reorganization, consolidation or merger, does not adversely affect or impair to any extent or in any manner (A) the Pledged Revenues or other elements of the Trust Estate, or (B) the availability of the Pledged Revenues for the payment and security of the obligations of the Borrower under this Agreement. The documents authorizing any reorganization, consolidation or merger shall contain a provision, satisfactory in form and substance to the TIFIA Lender, that, following such reorganization, consolidation or merger, the successor will assume, by operation of law or otherwise, the due and punctual performance and observance of all of the representations, warranties, covenants, agreements and conditions of this Agreement and the other Related Documents to which the Borrower is a party. In addition, the Borrower shall provide all information concerning such reorganization, consolidation or merger as shall have been reasonably requested by the TIFIA Lender.

(k) No Defeasance of TIFIA Bond. The Borrower shall not defease the TIFIA Bond pursuant to the Indenture without the prior written consent of the TIFIA Lender.

(l) OFAC Compliance. The Borrower shall not:

(i) violate (A) any applicable anti-money laundering laws, including those contained in the Bank Secrecy Act and the Patriot Act, (B) any applicable economic sanction laws administered by OFAC or by the United States Department of State, or (C) any applicable anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal; or

(ii) be a Person (A) that is charged with, or that has received notice from a Governmental Authority that it is under investigation for, any violation of any such laws, (B) that is convicted of any violation of, is subject to civil or criminal penalties pursuant to, has any of its property seized or forfeited under, or enters into any agreement with the Government or a state or local government related to violations of, any such laws, (C) that is named on the list of “Specially Designated Nationals and Blocked Persons” maintained by OFAC (or any successor Government office or list), or any similar list maintained by the United States Department of State (or any successor Government office or list), (D) with whom any U.S. Person (as defined in the applicable OFAC regulations) is prohibited from transacting business of the type contemplated by this Agreement and the other Related Documents under any other applicable law, (E) that is owned, Controlled by, or affiliated with any Person identified in clause (A), (B), (c) or (d) of this Section 17(l)(ii) (*OFAC Compliance*), or (F) that is in violation of any obligation to maintain appropriate internal controls as required by the governing laws of the jurisdiction of such Person as are necessary to ensure compliance with the economic sanctions, anti-money laundering and anti-corruption laws of the United States of America and the jurisdiction where the Person resides, is domiciled or has its principal place of business.

(iii) The Borrower shall not knowingly make a payment, directly or indirectly, to any Principal Project Party that has violated any of the laws referenced in

Section 17(l)(i) (*OFAC Compliance*) or that is a Person described in Section 17(l)(ii) (*OFAC Compliance*).

(m) Hedging. Other than Interest Rate Swap Agreements expressly permitted hereunder, the Borrower shall not enter into any swap or hedging transaction, including inflation indexed swap transactions, “cap” or “collar” transactions, futures, or any other hedging transaction without the prior written consent of the TIFIA Lender.

(n) Additional Rights. In the event that the Borrower shall, directly or indirectly, enter into, consent to, or otherwise grant any Contractual Obligation which provides any counterparty to such Contractual Obligation with rights to accelerate any Secured Obligations or other obligations (the “**Additional Rights**”) in violation of Section 17(b)(vi) (*No Lien Extinguishment or Adverse Amendments*), then, to the extent permitted by law, such Additional Rights shall automatically be deemed to be incorporated into this Agreement and the TIFIA Lender shall have the benefits of such Additional Rights including the right to accelerate the TIFIA Loan pursuant to Sections 20(c) and (d) (*Events of Default and Remedies*). The Borrower shall promptly, upon entering into or otherwise consenting to a Contractual Obligation containing such Additional Rights, notify the TIFIA Lender of such Contractual Obligation and, to the extent permitted by law, enter into an amendment to this Agreement to include such Additional Rights; provided, that, the TIFIA Lender shall have the benefit of such Additional Rights, to the extent permitted by law, even if the Borrower fails to provide such notice or enter into an amendment hereto to include said Additional Rights into this Agreement.

(o) No Prohibited Payments. Except in accordance with the terms of this Agreement, the Borrower shall not, at any time, make, or permit to be made, any payments from the Pledged Revenues received by the Trustee under the Indenture to any party prior to satisfying all obligations then due and payable to the TIFIA Lender under this Agreement.

Section 18. Indemnification. The Borrower shall indemnify the TIFIA Lender and any official, employee, agent or representative of the TIFIA Lender (each such Person being herein referred to as an “**Indemnitee**”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities, fines, penalties, costs and expenses (including the fees, charges and disbursements of any counsel for any Indemnitee and the costs of environmental remediation), whether known, unknown, contingent or otherwise, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (a) the execution, delivery and performance of this Agreement or any of the other Related Documents, (b) the TIFIA Loan or the use of the proceeds thereof, or (c) the violation of any law, rule, regulation, order, decree, judgment or administrative decision relating to the environment, the preservation or reclamation of natural resources, the management, release or threatened release of any hazardous material or to health and safety matters; in each case arising out of or in direct relation to the Project; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities, fines, penalties, costs or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee. In case any action or proceeding is brought against an Indemnitee by reason of any claim with respect to which such Indemnitee is entitled to indemnification hereunder, the Borrower shall be entitled, at its expense, to participate in the defense thereof; provided that such Indemnitee has

the right to retain its own counsel, at the Borrower's expense, and such participation by the Borrower in the defense thereof shall not release the Borrower of any liability that it may have to such Indemnitee. Any Indemnitee against whom any indemnity claim contemplated in this Section 18 (*Indemnification*) is made shall be entitled, after consultation with the Borrower and upon consultation with legal counsel wherein such Indemnitee is advised that such indemnity claim is meritorious, to compromise or settle any such indemnity claim. Any such compromise or settlement shall be binding upon the Borrower for purposes of this Section 18 (*Indemnification*). Nothing herein shall be construed as a waiver of any legal immunity that may be available to any Indemnitee. To the extent permitted by applicable law, neither the Borrower nor the TIFIA Lender shall assert, and each of the Borrower and the TIFIA Lender hereby waives, any claim against any Indemnitee or the Borrower, respectively, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any of the other Related Documents, the other transactions contemplated hereby and thereby, the TIFIA Loan or the use of the proceeds thereof, provided that nothing in this sentence shall limit the Borrower's indemnity obligations to the extent such damages are included in any third party claim in connection with which an Indemnitee is entitled to indemnification hereunder. All amounts due to any Indemnitee under this Section 18 (*Indemnification*) shall be payable promptly upon demand therefor. The obligations of the Borrower under this Section 18 (*Indemnification*) shall survive the payment or prepayment in full or transfer of the TIFIA Bond, the enforcement of any provision of this Agreement or the other Related Documents, any amendments, waivers (other than amendments or waivers in writing with respect to this Section 18 (*Indemnification*)) or consents in respect hereof or thereof, any Event of Default, and any workout, restructuring or similar arrangement of the obligations of the Borrower hereunder or thereunder.

Section 19. Sale of TIFIA Loan. The TIFIA Lender shall not sell the TIFIA Loan at any time prior to the Substantial Completion Date. After such date, the TIFIA Lender may sell the TIFIA Loan to another entity or reoffer the TIFIA Loan into the capital markets only in accordance with the provisions of this Section 19 (*Sale of TIFIA Loan*). Such sale or reoffering shall be on such terms as the TIFIA Lender shall deem advisable. However, in making such sale or reoffering the TIFIA Lender shall not change the terms and conditions of the TIFIA Loan without the prior written consent of the Borrower in accordance with Section 30 (*Amendments and Waivers*). The TIFIA Lender shall provide, at least sixty (60) days prior to any sale or reoffering of the TIFIA Loan, written notice to the Borrower of the TIFIA Lender's intention to consummate such a sale or reoffering; provided, however, that no such notice shall be required during the continuation of any Event of Default. The provision of any notice pursuant to this Section 19 (*Sale of TIFIA Loan*) shall not (x) obligate the TIFIA Lender to sell nor (y) provide the Borrower with any rights or remedies in the event the TIFIA Lender, for any reason, does not sell the TIFIA Loan.

Section 20. Events of Default and Remedies.

(a) An "Event of Default" shall exist under this Agreement if any of the following occurs:

(i) Payment Default. The Borrower shall fail to pay any of the principal amount of or interest on the TIFIA Loan (including TIFIA Debt Service

required to have been paid pursuant to the provisions of Section 9 (*Payment of Principal and Interest*)), when and as the payment thereof shall be required under this Agreement or the TIFIA Bond or on the Final Maturity Date (each such failure, a “**Payment Default**”).

(ii) Covenant Default. (A) The Borrower shall fail to observe or perform any covenant, agreement or obligation of the Borrower under this Agreement, the TIFIA Bond or any other TIFIA Loan Document (other than in the case of any Payment Default or any Development Default), (B) SANDAG shall fail to observe or perform any covenant, agreement or obligation of SANDAG under the SANDAG Direct Agreement or (C) MTS shall fail to observe or perform any covenant, agreement or obligation of MTS under the MTS Direct Agreement, and any such failure described in clauses (A), (B) or (C) shall not be cured within thirty (30) days after receipt by the applicable Borrower Related Party from the TIFIA Lender of written notice thereof; provided, however, that if such failure is capable of cure but cannot reasonably be cured within such thirty (30) day cure period, then no Event of Default shall be deemed to have occurred or be continuing under this Section 20(a)(ii) (*Covenant Default*), and such thirty (30) day cure period shall be extended by up to one hundred fifty (150) additional days, if and so long as (x) within such thirty (30) day cure period the Borrower, SANDAG or MTS, as applicable, shall commence actions reasonably designed to cure such failure and shall diligently pursue such actions until such failure is cured, and (y) such failure is cured within one hundred eighty (180) days of the date of the notice of default from the TIFIA Lender.

(iii) Development Default. A Development Default shall occur, in which case the TIFIA Lender may (A) suspend the disbursement of TIFIA Loan proceeds under this Agreement and (B) pursue such other remedies as provided in this Section 20 (*Events of Default and Remedies*). If so requested by the TIFIA Lender in connection with a Development Default, the Borrower shall immediately repay any unexpended TIFIA Loan proceeds previously disbursed to the Borrower.

(iv) Misrepresentation Default. Any of the representations, warranties or certifications of (A) the Borrower made in or delivered pursuant to the TIFIA Loan Documents (or in any certificates delivered by the Borrower in connection with the TIFIA Loan Documents), (B) SANDAG made in or delivered pursuant to the SANDAG Direct Agreement (or in any certificates delivered by SANDAG in connection with the SANDAG Direct Agreement) or (C) MTS made in or delivered pursuant to the MTS Direct Agreement (or in any certificates delivered by MTS in connection with the MTS Direct Agreement), shall prove to have been false or misleading in any material respect when made or deemed made (or any representation and warranty that is subject to a materiality qualifier shall prove to have been false or misleading in any respect); provided that no Event of Default shall be deemed to have occurred under this Section 20(a)(iv) (*Misrepresentation Default*) if and so long as:

- (1) such misrepresentation is not intentional;

- (2) in the case of the Borrower, such misrepresentation is not a misrepresentation in respect of Section 14(h) (*No Debarment*), Section 14(j) (*Compliance with Federal Requirements*), Section 14(k) (*Transportation Improvement Program*), Section 14(p) (*Information*), Section 14(q) (*OFAC; Anti-Corruption Laws*), Section 14(x) (*Financial Statements*) or Section 14(cc) (*Patriot Act*);
- (3) in the case of SANDAG, such misrepresentation is not a misrepresentation in respect of Sections 5(g), 5(i), 5(m) or 5(n) of the SANDAG Direct Agreement;
- (4) in the case of MTS, such misrepresentation is not a misrepresentation in respect of Sections 4(g), 4(i), 4(m) or 4(n) of the MTS Direct Agreement;
- (5) in the reasonable determination of the TIFIA Lender, such misrepresentation has not had, and would not reasonably be expected to result in, a Material Adverse Effect;
- (6) in the reasonable determination of the TIFIA Lender, the underlying issue giving rise to the misrepresentation is capable of being cured;
- (7) the underlying issue giving rise to the misrepresentation is cured by the applicable Borrower Related Party within thirty (30) days from the date on which such Borrower Related Party first became aware (or reasonably should have become aware) of such misrepresentation; and
- (8) the applicable Borrower Related Party diligently pursues such cure during such thirty (30) day period.

(v) Acceleration of Secured Obligations or Other Material Indebtedness. Any acceleration shall occur of the maturity of any (A) Secured Obligations or (B) any indebtedness or other payment obligations of the Borrower secured by Pledged Revenues in an aggregate principal amount equal to or greater than \$1,000,000 that is senior to, or in parity with, the TIFIA Loan in right of payment or in right of security (“**Other Material Indebtedness**”), or any other indebtedness shall not be paid in full upon the final maturity thereof. For the avoidance of doubt, swap termination payments and term-outs of Secured Obligations that occur in accordance with the terms of such Secured Obligations shall not be considered acceleration.

(vi) Cross Default. (A) Any of the representations, warranties or certifications of the Borrower made in or delivered pursuant to the Indenture Documents, or made in or delivered pursuant to the documents (the “**Other Loan Documents**”) under which any Secured Obligations is created or incurred, shall prove to be false or misleading in any material respect (each an “**Other Indebtedness Misrepresentation**”).

Default”), or any default shall occur in respect of the performance of any covenant, agreement or obligation of the Borrower under the Indenture Documents or the Other Loan Documents, and such default shall be continuing after the giving of any applicable notice and the expiration of any applicable grace period specified in the Indenture Documents or the Other Loan Documents (as the case may be) with respect to such default (each an “**Other Indebtedness Covenant Default**”), if the effect of such Other Indebtedness Misrepresentation Default or Other Indebtedness Covenant Default shall be to permit the immediate acceleration of the maturity of any or all of the Secured Obligations, and, in the case of any such Other Indebtedness Misrepresentation Default or Other Indebtedness Covenant Default, the Borrower shall have failed to cure such Other Indebtedness Misrepresentation Default or Other Indebtedness Covenant Default or to obtain an effective written waiver thereof in accordance with the terms of such Secured Obligations. For the avoidance of doubt, swap termination payments and term-outs of Secured Obligations that occur in accordance with the terms of such Secured Obligations shall not be considered acceleration.

(B) A Borrower Related Party shall default in the timely performance of any covenant, agreement or obligation under any Related Document to which it is party or any Related Document shall be terminated prior to its scheduled expiration (unless in any case such default or termination could not reasonably be expected to have a Material Adverse Effect), and the applicable Borrower Related Party shall have failed to cure such default or to obtain an effective written waiver or revocation thereof prior to the expiration of the applicable grace period specified in any such Related Document, or to obtain an effective revocation of such termination (as the case may be); provided, however, that no Event of Default shall be deemed to have occurred or be continuing under this Section 20(a)(vi)(B) (*Cross Default*) if, in the case of any termination of a Principal Project Contract, the applicable Borrower Related Party replaces such Principal Project Contract with a replacement agreement (1) entered into with another counterparty that (x) is of similar or greater creditworthiness and experience as the counterparty being replaced was at the time the applicable Principal Project Contract was originally executed (or otherwise reasonably acceptable to the TIFIA Lender) and (y) is not, at the time of such replacement, suspended or debarred or subject to a proceeding to suspend or debar from bidding, proposing or contracting with any federal or state department or agency, (2) on substantially the same terms and conditions as the Principal Project Contract being replaced (or otherwise reasonably acceptable to the TIFIA Lender) and (3) effective as of the date of termination of the Principal Project Contract being replaced. For the avoidance of doubt, swap termination payments and term-outs of Secured Obligations that occur in accordance with the terms of such Secured Obligations shall not be considered acceleration.

(vii) Judgments. One or more judgments (A) for the payment of money that are payable from Sales Tax Revenues and the aggregate amount not otherwise fully covered by insurance (for which the insurer has acknowledged and not disputed coverage) is in excess of \$1,000,000 (inflated annually by CPI) or (B) that would reasonably be expected to result in a Material Adverse Effect shall, in either case, be

rendered against a Borrower Related Party, and the same shall remain undischarged for a period of thirty (30) consecutive days during which time period execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon all or any portion of the Trust Estate to enforce any such judgment.

(viii) Failure to Maintain Existence. The Borrower shall fail to maintain its existence as a public entity, unless at or prior to the time the Borrower ceases to exist in such form a successor public agency or governing body has been created by the State pursuant to a valid and unchallenged State law and has succeeded to the assets of the Borrower and has assumed all of the obligations of the Borrower under the TIFIA Loan Documents and the Indenture Documents, including the payment of all Secured Obligations.

(ix) Occurrence of a Bankruptcy Related Event. (A) A Bankruptcy Related Event shall occur with respect to the Borrower or (B) a Bankruptcy Related Event shall occur with respect to any Borrower Related Party (other than the Borrower) or any Principal Project Party; provided, that: (1) a Bankruptcy Related Event in connection with a Principal Project Party shall not constitute an Event of Default if the relevant Borrower Related Party shall have promptly provided evidence satisfactory to the TIFIA Lender demonstrating that any substitute Principal Project Party has sufficient financial resources and operating expertise to complete the Principal Project Contract to which such Principal Project Party was a party; and (2) after the Substantial Completion Date, the occurrence of a Bankruptcy Related Event in connection with any Principal Project Party shall not constitute an Event of Default if at the time of such occurrence, (x) each applicable warranty period shall have ended and no claim against any warranty under the applicable Principal Project Contract shall exist or remain outstanding, or (y) if any applicable warranty period has not yet ended or any claim against any warranty remains outstanding, the Borrower promptly provides evidence satisfactory to the TIFIA Lender showing that SANDAG or MTS has (I) sufficient moneys to correct any defect or nonconforming work of such Principal Project Party, and (II) a plan to carry out such works referred to in clause (I) hereof.

(x) Project Abandonment. Any Borrower Related Party shall abandon the Project.

(xi) Invalidity of TIFIA Loan Documents. (A) Any TIFIA Loan Document ceases to be in full force and effect (other than as a result of the termination thereof in accordance with its terms) or becomes void, voidable, illegal or unenforceable, or any Borrower Related Party contests in any manner the validity or enforceability of any TIFIA Loan Document to which it is a party or denies it has any further liability under any TIFIA Loan Document to which it is a party, or purports to revoke, terminate or rescind any TIFIA Loan Document to which it is a party; or (B) any Indenture Document ceases (other than as expressly permitted thereunder) to be effective to grant a valid and binding security interest on any material portion of the Trust Estate other than as a result of actions or a failure to act by, and within the control of, the Trustee or any Secured Party, and with the priority purported to be created thereby.

(xii) Cessation of Operations. Operation of the Project shall cease for a continuous period of not less than one hundred eighty (180) days unless such cessation of operations shall occur by reason of an Uncontrollable Force that is not due to the fault of any Borrower Related Party (and which none of the Borrower Related Parties could reasonably have avoided or mitigated).

(b) Upon the occurrence of an Event of Default described in Section 20(a)(iii) (*Development Default*), all obligations of the TIFIA Lender hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan shall immediately be deemed terminated.

(c) Upon the occurrence of any Bankruptcy Related Event with respect to the Borrower, all obligations of the TIFIA Lender hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan shall automatically be deemed terminated, and, if an Event of Default described in Section 20(a)(v) (*Acceleration of Secured Obligations or Other Material Indebtedness*) shall occur or if the TIFIA Lender has a right to accelerate the TIFIA Loan pursuant to Section 17(n) (*Additional Rights*), the Outstanding TIFIA Loan Balance, together with all interest accrued thereon and all fees, costs, expenses, indemnities and other amounts payable under this Agreement, the TIFIA Bond or the other TIFIA Loan Documents, shall automatically become immediately due and payable, without presentment, demand, notice, declaration, protest or other requirements of any kind, all of which are hereby expressly waived. Upon the occurrence of any other Event of Default, the TIFIA Lender, by written notice to the Borrower, may (i) suspend or terminate all of its obligations hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan and (ii) if an Event of Default described in Section 20(a)(v) (*Acceleration of Secured Obligations or Other Material Indebtedness*) shall occur or if the TIFIA Lender has a right to accelerate the TIFIA Loan pursuant to Section 17(n) (*Additional Rights*), declare the unpaid principal amount of the TIFIA Bond to be, and the same shall thereupon forthwith become, immediately due and payable, together with the interest accrued thereon and all fees, costs, expenses, indemnities and other amounts payable under this Agreement, the TIFIA Bond or the other TIFIA Loan Documents, all without presentment, demand, notice, protest or other requirements of any kind, all of which are hereby expressly waived.

(d) Whenever any Event of Default hereunder shall have occurred and be continuing, the TIFIA Lender shall be entitled and empowered to institute any actions or proceedings at law or in equity for the collection of any sums due and unpaid hereunder or under the TIFIA Bond or the other TIFIA Loan Documents, and may prosecute any such judgment or final decree against the Borrower and collect in the manner provided by law out of the property of the Borrower the moneys adjudged or decreed to be payable, and the TIFIA Lender shall have all of the rights and remedies of a creditor, including all rights and remedies, to the extent applicable to the Trust Estate, of a secured creditor under the Uniform Commercial Code and may take such other actions at law or in equity as may appear necessary or desirable to collect all amounts payable by Borrower under this Agreement, the TIFIA Bond or the other TIFIA Loan Documents then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement, the TIFIA Bond or the other TIFIA Loan Documents; provided, however, that any monetary judgment against the

Borrower shall be payable solely from the Trust Estate or from any other funds made available by the Borrower, in its discretion.

(e) Whenever any Event of Default hereunder shall have occurred and be continuing, the TIFIA Lender may suspend or debar the Borrower from further participation in any Government program administered by the TIFIA Lender and to notify other departments and agencies of such default.

(f) No action taken pursuant to this Section 20 (*Events of Default and Remedies*) shall relieve Borrower from its obligations pursuant to this Agreement, the TIFIA Bond or the other TIFIA Loan Documents, all of which shall survive any such action.

(g) The parties acknowledge and agree that the rights and remedies of the TIFIA Lender as the Holder of the TIFIA Bond, including any rights and remedies with respect to the payment thereof, shall be governed exclusively by the Indenture. In addition to the rights and remedies of Holders set forth in the Indenture, the parties further acknowledge and agree that the TIFIA Loan shall be made under and subject to, the terms and conditions set forth in this Agreement and the rights and remedies of the TIFIA Lender hereunder, including the right to enforce the representations, warranties and covenants made by the Borrower exclusively for the benefit of the TIFIA Lender, shall be governed exclusively by those remedies set forth in Section 20(b), (c), (d), (e) and (f) hereof. In the event of a conflict between the Indenture and this Agreement, the provisions of this Agreement shall be given precedence; provided, however, in the event there exists a conflict between the provisions of this Agreement and the Indenture and performance with the provisions of this Agreement is contrary to or inconsistent with the rights of the Holders of other Secured Obligations under the Indenture, then the provisions of the Indenture shall be given precedence and performance with the provisions thereof shall not constitute a violation of this Agreement. Subject to the immediately previous sentence, the Borrower shall comply with all provisions of the Indenture and with all documents entered into or delivered in connection with this transaction.

Section 21. Accounting and Audit Procedures; Inspections; Reports and Records.

(a) Accounting and Audit Procedures. The Borrower shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for all Project-related transactions (including collection of Pledged Revenues, and TIFIA Loan requisitions received and disbursements made with regard to the Project), so that audits may be performed to ensure compliance with and enforcement of this Agreement. The Borrower shall use accounting, audit and fiscal procedures conforming to GAAP, including, with respect to the TIFIA Loan, accounting of principal and interest payments, disbursements, prepayments and calculation of interest and principal amounts outstanding.

(b) Inspections. So long as the TIFIA Loan or any portion thereof shall remain outstanding and until five (5) years after the TIFIA Loan shall have been paid in full, the TIFIA Lender shall have the right, upon reasonable prior notice, to visit and inspect any of the locations or properties of the Borrower, to examine its books of account and records, to make copies and extracts therefrom at the Borrower's expense, and to discuss the Borrower's affairs, finances and accounts with, and to be advised as to the same by, its officers and employees and

its independent public accountants (and by this provision the Borrower irrevocably authorizes its independent public accountants to discuss with the TIFIA Lender the affairs, finances and accounts of the Borrower, whether or not any representative of the Borrower is present, it being understood that nothing contained in this Section 21(b) (*Inspections*) is intended to confer any right to exclude any such representative from such discussions), all at such reasonable times and intervals as the TIFIA Lender may desire. The Borrower agrees to pay all out-of-pocket expenses incurred by the TIFIA Lender in connection with the TIFIA Lender's exercise of its rights under this Section 21(b) (*Inspections*) at any time when an Event of Default shall have occurred and be continuing.

(c) Reports and Records. The Borrower shall maintain and retain all files relating to the Project, the Pledged Revenues and the TIFIA Loan until three (3) years after the later of the date on which (i) all rights and duties hereunder and under the TIFIA Bond (including payments) have been fulfilled and any required audits have been performed and (ii) any litigation relating to the Project, the Sale Tax Revenues, the TIFIA Loan or this Agreement is finally resolved or, if the TIFIA Lender has reasonable cause to extend such date, a date to be mutually agreed upon by the TIFIA Lender and the Borrower. The Borrower shall provide to the TIFIA Lender in a timely manner all records and documentation relating to the Project or the Pledged Revenues that the TIFIA Lender may reasonably request from time to time.

(d) Copies of Senior Obligations Related Notices. The Borrower shall provide to the TIFIA Lender, promptly after the sending or receipt thereof, copies of (i) final ratings presentations sent to, and any notices, reports or other written materials (other than those that are ministerial in nature) received from, any Nationally Recognized Rating Agency that has provided, or is being requested to provide, a rating with respect to any indebtedness of the Borrower that is or will be secured by or paid from the Sales Tax Revenues, (ii) all notices and other written communications, other than those that are non-substantive or ministerial in nature, received by it from the Trustee or any Bondholder, and (iii) all reports, notices and other written materials, other than those that are non-substantive or ministerial in nature, required to be sent to the Trustee or any Bondholder under the Indenture Documents, including all such notices, other than those that are non-substantive or ministerial in nature, relating to any of the Principal Project Contracts; unless, in each case, the TIFIA Lender notifies the Borrower that any such reports, notices and/or other written materials no longer need to be provided.

(e) Required Audit. The Borrower shall have a single or program-specific audit conducted in accordance with 2 C.F.R. Part 200 Subpart F and 31 U.S.C. § 7502 in 2017 and annually thereafter, except to the extent biennial audits are permitted for the Borrower pursuant to 2 C.F.R. § 200.504 and 31 U.S.C. § 7502(b). Upon reasonable notice, the Borrower shall cooperate fully in the conduct of any periodic or compliance audits conducted by the TIFIA Lender, the USDOT, or designees thereof, pursuant to 49 C.F.R. § 80.19, 31 U.S.C. § 7503(b), or 31 U.S.C. § 6503(h) and shall provide full access to any books, documents, papers or other records that are pertinent to the Project or the TIFIA Loan, to the Secretary, or the designee thereof, for any such project or programmatic audit.

Section 22. Financial Plan, Statements, and Reports.

(a) Financial Plan. The Borrower shall provide to the TIFIA Lender and the FTA Regional Office, within sixty (60) days after the Effective Date and annually thereafter not later than ninety (90) days after the beginning of each Borrower Fiscal Year, a Financial Plan. The Financial Plan submitted within sixty (60) days after the Effective Date should be consistent in all respects with the projections, assumptions and other information contained or reflected in the Base Case Financial Model. The initial and each subsequent Financial Plan delivered hereunder shall be subject to approval by the TIFIA Lender.

(i) The Financial Plan shall be prepared in accordance with recognized financial reporting standards, such as those in the “Guide for Prospective Financial Information” of the American Institute of Certified Public Accountants, shall meet FTA Project Management Oversight Requirements, and shall be in form and substance satisfactory to the TIFIA Lender.

(ii) The Financial Plan shall include: (A) a certificate signed by the Borrower’s Authorized Representative to the effect that the Financial Plan, including the assumptions and supporting documentation, is accurate and reasonable to the best of the Borrower’s knowledge and belief; (B) a certificate signed by the Borrower’s Authorized Representative demonstrating that annual projected Sales Tax Revenues shall be sufficient to meet the Loan Amortization Schedule and to maintain Debt Service Coverage Ratio of at least 1.35 to 1.00 through the Final Maturity Date; and (C) an electronic copy of a Revised Financial Model for the period from the Effective Date through the Final Maturity Date, in substantially the form of the Base Case Financial Model, based upon assumptions and projections with respect to the Sales Tax Revenues, expenses and other financial aspects of the Project that shall reflect the prior experience and current status of the Project, and the expectations of the Borrower with respect to the Project, as of the most recent practicable date prior to the delivery of such Revised Financial Model.

(iii) For the period through the Substantial Completion Date, the Financial Plan shall:

(A) provide the current estimate of Total Project Costs and the remaining cost to complete the Project, identify any significant cost changes since the previous Financial Plan, discuss reasons for and implications of the cost changes, and include a summary table showing the history of Total Project Costs by major activity or category in comparison to the Base Case Financial Model and the preceding Financial Plan;

(B) provide updates to the Construction Schedule, including an update, if any, to the Projected Substantial Completion Date and an explanation of any such adjustment;

(C) identify major milestones for each phase of the Project and compare current milestone dates with the milestone dates in the Construction Schedule and in the preceding Financial Plan, and discuss reasons for changes in Project milestones;

(D) provide current estimates of sources and uses of funds for the Project, identify any significant funding changes since the preceding Financial Plan, discuss reasons for and implications of the funding changes, and include a summary table showing the history of Project funding in comparison to the Base Case Financial Model and the preceding Financial Plan;

(E) provide an updated cash flow schedule showing annual cash needs versus available revenue and funding to meet those needs and identify any potential revenue and funding shortfalls, and addressing contingency measures that will or may be taken to address any shortfalls;

(F) provide cost containment strategies and risk mitigation plans that have been or may be implemented to address factors that are affecting or could affect the scheduled completion or financial viability of the Project;

(G) provide the total value of approved changes in Project design or scope, and provide a listing of each individual change valued at \$5,000,000 or more, setting forth the rationale or need for the proposed change and describing the impact of such change on the Project;

(H) to the extent that any Interest Rate Swap Agreements secured by Pledged Revenues are then in effect, report on the notional amounts covered by such Interest Rate Swap Agreements;

(I) contain, in form and substance satisfactory to the TIFIA Lender, a written narrative executive summary of the topics described in clauses (A) through (H) above since the Effective Date and since the preceding Financial Plan, describing in reasonable detail all material matters that may affect the future performance of the Borrower's obligations under this Agreement, including any adjustment to the Projected Substantial Completion Date, and the causes thereof; and

(J) comply in all respects with FTA Project Management Oversight Requirements.

(iv) For the period following the Substantial Completion Date until repayment of the TIFIA Loan in full, the Financial Plan shall:

(A) provide an updated cash flow schedule showing annual cash inflows (Sales Tax Revenues, interest and other income) and outflows (whether or not required to be paid pursuant to the provisions of Section 9 (*Payment of Principal and Interest*)), replenishment of the Bond Reserve Fund, the TIFIA Reserve Fund and other uses) with a narrative identifying any potential revenue or funding shortfall and discussing contingency measures that will or may be taken to address any shortfalls;

(B) provide current and estimated amounts of Sales Tax Revenues received and the amounts deposited into each of the accounts and

subaccounts established under the Indenture and the amount disbursed from such funds and accounts and the balance in each of the funds and accounts;

(C) provide an updated schedule of actual and projected Sales Tax Revenues, showing actual and projected Debt Service Coverage Ratios for the TIFIA Bond;

(D) to the extent that any Interest Rate Swap Agreements secured by Pledged Revenues are then in effect, report on the notional amounts and mark to market values under such Interest Rate Swap Agreement; and

(E) include a written narrative report explaining any variances in Sales Tax Revenues since the Base Case Financial Model and the preceding Financial Plan and describing in reasonable detail any material matters that may affect the future performance of the Borrower's obligations under this Agreement and the causes thereof.

(b) Not later than ninety (90) days following Substantial Completion, the Borrower shall provide the TIFIA Lender with a final written narrative report, summarizing all significant activities and events, since the Base Case Financial Model, affecting the operation, maintenance, financing, or management of the Project in a form reasonably satisfactory to the TIFIA Lender. Such report shall include an updated cash flow schedule and currently projected Sales Tax Revenues for all Borrower Fiscal Years during the term of the TIFIA Loan.

(c) Modifications to Total Project Costs. For the period through the Substantial Completion Date, the Borrower shall provide the TIFIA Lender with written notification at least thirty (30) days prior to instituting any increase or decrease to the aggregate Total Project Costs in an amount equal to or greater than five percent (5%), which notification shall set forth the nature of the proposed increase or decrease and an estimate of the impact of such increase or decrease on the capital costs and operating costs of the Project, and the Financial Plan. The Borrower's notice shall demonstrate that the proposed increase or decrease is consistent with the provisions of this Agreement, is necessary or beneficial to the Project, does not materially impair the TIFIA Lender's security or the Borrower's ability to comply with its obligations under the Related Documents (including any financial ratios or covenants included therein), and could not reasonably be expected to result in a Material Adverse Effect.

(d) Financial Statements. The Borrower shall furnish to the TIFIA Lender:

(i) (A) as soon as available, but no later than the last day of the month that is two months after the end of the first, second and third quarterly period of each Borrower Fiscal Year, an unaudited statement of revenues, expenditures, and changes in fund balances and statement of cash flows of the Borrower as of the end of such period and the related unaudited balance sheet of the Borrower for such period and for the portion of the fiscal year through the end of such period, setting forth in each case in comparative form the figures for the previous period, certified by the chief executive officer or chief financial officer of the Borrower or any Borrower's Authorized Representative fairly stating in all material respects the financial condition of the

Borrower as at the end of such period and the results of its operations and its cash flows for such period (subject to normal year-end audit adjustments); and

(B) as soon as available, but no later than one hundred eighty (180) days after the end of each Borrower Fiscal Year, a copy of the audited statement of revenues, expenditures, and changes in fund balances and statement of cash flows of the Borrower as of the end of such fiscal year and the related audited balance sheet of the Borrower for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, certified without a “going concern” or like qualification or exception, or qualification as to the scope of the audit, by an independent public accounting firm selected by the Borrower.

(ii) All such financial statements shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GAAP (or in the case of non-U.S. Persons, substantially equivalent principles) applied consistently throughout the periods reflected therein (except for changes approved or required by the independent public accountants certifying such statements and disclosed therein).

(e) Officer’s Certificate. The Borrower shall furnish to the TIFIA Lender, together with each delivery of annual audited or interim unaudited financial statements of the Borrower pursuant to Section 22(d) (*Financial Statements*), a certificate signed by the chief executive officer or chief financial officer of the Borrower or any Borrower’s Authorized Representative, stating whether or not, to the Borrower’s knowledge, during the quarterly or annual period (as the case may be) covered by such financial statements, there occurred any Event of Default or event that, with the giving of notice or the passage of time or both, would become an Event of Default, and, if any such Event of Default or other event shall have occurred during such period, the nature of such Event of Default or other event and the actions that the Borrower has taken or intends to take in respect thereof.

Section 23. Project Oversight and Monitoring.

(a) Project Development, Design and Construction. The TIFIA Lender shall have the right in its sole discretion to monitor (or direct its agents to monitor) the development, including environmental compliance, design, right-of-way acquisition, and construction of the Project. Pursuant to the SANDAG Direct Agreement, SANDAG shall be responsible for administering construction oversight of the Project in accordance with the FTA Master Agreement and the FFGA, and SANDAG’s oversight of Project development, environmental compliance, design, right-of-way acquisition, and construction monitoring shall be conducted pursuant to the FTA Master Agreement and the FFGA, which may be amended from time to time upon mutual agreement of SANDAG and the FTA Regional Office, or when so required by federal statute or otherwise required by Congress. The Borrower agrees to cooperate in good faith with SANDAG, the TIFIA Lender and FTA Regional Office in the conduct of such monitoring by promptly providing the TIFIA Lender and FTA Regional Office with such reports, documentation or other information as shall be requested by the TIFIA Lender and FTA

Regional Office, or its agents, including any independent engineer reports, documentation or information.

(b) Recovery Plan. If the monthly construction progress report described in Section 10(d)(i) of the SANDAG Direct Agreement or the monthly report issued pursuant to the FTA Project Management Oversight Regulations indicates either (i) a failure to maintain the Construction Schedule, including a failure to achieve Substantial Completion by the Projected Substantial Completion Date or the anticipated Substantial Completion Date set forth in the previous monthly construction progress report provided pursuant to Section 10(d)(i) of the SANDAG Direct Agreement, or (ii) actual or projected Eligible Project Cost overruns in excess of five percent (5%) of the Eligible Project Costs reflected in the Project Budget, or both, then the Borrower shall notify the TIFIA Lender and the FTA Regional Office of such failure and shall, upon request by the TIFIA Lender or the FTA Regional Office, provide the TIFIA Lender and the FTA Regional Office within thirty (30) days of receipt of such request, a Recovery Plan for review and acceptance by the TIFIA Lender and the FTA Regional Office.

(c) Requested Information. The Borrower shall, at any time while the TIFIA Loan remains outstanding, promptly deliver to the TIFIA Lender such additional information regarding the business, financial, legal or organizational affairs of the Borrower or regarding the Project or the Pledged Revenues as the TIFIA Lender may from time to time reasonably request, including copies of agreements related to the acquisition or control of any Project right-of-way.

(d) Project Operations. For the period following the Substantial Completion Date, the TIFIA Lender shall have the right, in its sole discretion, to monitor (or direct its agents to monitor) the Project's operations and, as the TIFIA Lender may request from time to time, to receive reporting on the operation and management of the Project. The Borrower agrees to cooperate in good faith with the TIFIA Lender in the conduct of such monitoring by promptly providing the TIFIA Lender with such reports requested by the TIFIA Lender. Any costs incurred by the TIFIA Lender for such monitoring shall be promptly reimbursed by the Borrower upon demand therefor in the form of an invoice reasonably acceptable to the Borrower.

Section 24. No Personal Recourse. No official, employee or agent of the TIFIA Lender or the Borrower or any Person executing this Agreement or any of the other TIFIA Loan Documents shall be personally liable on this Agreement or such other TIFIA Loan Documents by reason of the issuance, delivery or execution hereof or thereof.

Section 25. No Third Party Rights. The parties hereby agree that this Agreement creates no third party rights against the Borrower, the Government, or the TIFIA Lender, solely by virtue of the TIFIA Loan, and the Borrower agrees to indemnify and hold the TIFIA Lender, the Servicer (if any), the Executive Director, and the Government harmless, to the extent permitted by law and in accordance with Section 18 (*Indemnification*), from any lawsuit or claim arising in law or equity solely by reason of the TIFIA Loan, and that no third party creditor or creditors of the Borrower shall have any right against the TIFIA Lender with respect to the TIFIA Loan made pursuant to this Agreement.

Section 26. Borrower's Authorized Representative. The Borrower shall at all times have appointed a Borrower's Authorized Representative by designating such Person or Persons

from time to time to act on the Borrower's behalf pursuant to a written certificate furnished to the TIFIA Lender and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the Borrower.

Section 27. TIFIA Lender's Authorized Representative.

(a) The TIFIA Lender shall at all times have appointed the TIFIA Lender's Authorized Representative by designating such Person or Persons from time to time to act on the TIFIA Lender's behalf pursuant to a written certificate furnished to the Borrower and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the TIFIA Lender.

(b) Pursuant to the delegation of authority, dated July 20, 2016, from the Secretary to the Under Secretary of Transportation for Policy, the further delegation of authority, dated July 20, 2016, from the Under Secretary of Transportation for Policy to the Executive Director of the Build America Bureau, and the further delegation of authority, dated August 31, 2016 (the "**Delegation**"), the Director of the Credit Office of the Build America Bureau has been delegated the authority to enter into contracts and sign all contractual and funding documents (with the exception of the term sheets and credit agreements) necessary to implement the Act, including entering into technical amendments to, and restatements of, term sheets and credit agreements that do not materially impair the credit quality of the revenues pledged to repay the TIFIA Lender. Pursuant to the Delegation, the Director of the Credit Office of the Build America Bureau may act and serve as the TIFIA Lender's Authorized Representative under this Agreement, in addition to the Executive Director of the Build America Bureau for the purposes set forth herein.

Section 28. Servicer. The TIFIA Lender may from time to time designate another entity or entities to perform, or assist the TIFIA Lender in performing, the duties of the Servicer or specified duties of the TIFIA Lender under this Agreement and the TIFIA Bond. The TIFIA Lender shall give the Borrower written notice of the appointment of any successor or additional Servicer and shall enumerate the duties or any change in duties to be performed by any Servicer. Any references in this Agreement to the TIFIA Lender shall be deemed to be a reference to the Servicer with respect to any duties which the TIFIA Lender shall have delegated to such Servicer. The TIFIA Lender may at any time assume the duties of any Servicer under this Agreement and the TIFIA Bond. The Borrower shall cooperate and respond to any reasonable request of the Servicer for information, documentation or other items reasonably necessary for the performance by the Servicer of its duties hereunder.

Section 29. Fees and Expenses.

(a) Commencing in Federal Fiscal Year ("FFY") 2018 and continuing thereafter each year throughout the term of this Agreement, the Borrower shall pay to the TIFIA Lender a loan servicing fee on or before the fifteenth (15th) of November. The TIFIA Lender shall establish the amount of this annual fee, and the TIFIA Lender or the Servicer, if any, shall notify the Borrower of the amount, at least thirty (30) days before payment is due.

(b) In establishing the amount of the fee, the TIFIA Lender will adjust the previous year's base amount in proportion to the percentage change in CPI. For the FFY 2018 calculation, the TIFIA Lender will use the FFY 2017 base amount of \$13,000.00, which applies to other TIFIA borrowers, as the previous year's base amount. The TIFIA Lender will calculate the percentage change in the CPI, before seasonal adjustment, from August of the previous year to August of the current year and will then adjust the previous year's base amount in proportion to the CPI percentage change. To calculate the amount of the fee, the TIFIA Lender shall round the current year's base amount using increments of \$500. Results with the ending integers between 250-499 or between 750-999 shall be rounded upward, and results with the ending integers between 001-249 or between 501-749 shall be rounded downward. The CPI adjustments in the following years shall begin with the base amount, not the rounded fee.

(c) The Borrower agrees, whether or not the transactions hereby contemplated shall be consummated, to reimburse the TIFIA Lender on demand from time-to-time, within thirty (30) days after receipt of any invoice from the TIFIA Lender, for any and all fees, costs, charges, and expenses incurred by it (including the reasonable fees, costs, and expenses of its legal counsel, financial advisors, auditors and other consultants and advisors, such reasonableness determined in accordance with Part 31 of the Federal Acquisition Regulation) in connection with the negotiation, preparation, execution, delivery, and performance of this Agreement and the other TIFIA Loan Documents and the transactions hereby and thereby contemplated, including reasonable attorneys', and engineers' fees and professional costs, including all such fees, costs, and expenses incurred as a result of or in connection with:

(i) the enforcement of or attempt to enforce any provision of this Agreement or any of the other TIFIA Loan Documents;

(ii) any amendment, modification, or requested amendment or modification of, waiver, consent, or requested waiver or consent under or with respect to, or the protection or preservation of any right or claim under, this Agreement, any other Related Document, or the Trust Estate, or advice in connection with the administration, preservation in full force and effect, and enforcement of this Agreement or any other Related Document or the rights of the TIFIA Lender thereunder; and

(iii) any work-out, restructuring, or similar arrangement of the obligations of the Borrower under this Agreement or the other TIFIA Loan Documents, including during the pendency of one or more Events of Default.

The obligations of the Borrower under this Section 29 (*Fees and Expenses*) shall survive the payment or prepayment in full or transfer of the TIFIA Bond, the enforcement of any provision of this Agreement or the other TIFIA Loan Documents, any such amendments, waivers or consents, any Event of Default, and any such workout, restructuring, or similar arrangement.

Section 30. Amendments and Waivers. No amendment, modification, termination, or waiver of any provision of this Agreement shall in any event be effective without the written consent of each of the parties hereto.

Section 31. Governing Law. This Agreement shall be governed by the federal laws of the United States of America if and to the extent such federal laws are applicable and the internal laws of the State, if and to the extent such federal laws are not applicable.

Section 32. Severability. In case any provision in or obligation under this Agreement shall be invalid, illegal, or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 33. Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective permitted successors and assigns and shall inure to the benefit of the parties hereto and their permitted successors and assigns. Neither the Borrower's rights or obligations hereunder nor any interest therein may be assigned or delegated by the Borrower without the prior written consent of the TIFIA Lender.

Section 34. Remedies Not Exclusive. No remedy conferred herein or reserved to the TIFIA Lender is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 35. Delay or Omission Not Waiver. No delay or omission of the TIFIA Lender to exercise any right or remedy provided hereunder upon a default of the Borrower (except a delay or omission pursuant to a written waiver) shall impair any such right or remedy or constitute a waiver of any such default or acquiescence therein. Every right and remedy given by this Agreement or by law to the TIFIA Lender may be exercised from time to time, and as often as may be deemed expedient by the TIFIA Lender.

Section 36. Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. Electronic delivery of an executed counterpart of a signature page of this Agreement or any document or instrument delivered in connection herewith in accordance with Section 37 (*Notices; Payment Instructions*) shall be effective as delivery of an originally executed counterpart of this Agreement or such other document or instrument, as applicable.

Section 37. Notices; Payment Instructions. Notices hereunder shall be (a) in writing, (b) effective as provided below and (c) given by (i) nationally recognized courier service, (ii) hand delivery, or (iii) email, in each case to:

If to TIFIA Lender:

Build America Bureau
United States Department of
Transportation
Room W12-464
1200 New Jersey Avenue, SE
Washington, D.C. 20590
Attention: Director, Office of
Credit Programs
Email: BureauOversight@dot.gov

with copies to:

Federal Transit Administration
San Francisco Federal Building
90, 7th Street
Suite 15-300
San Francisco, California 94103
Attention: Regional Administrator
Email: Leslie.Rogers@dot.gov

If to Borrower:

San Diego County Regional
Transportation Commission
401 B Street, Suite 800
San Diego, California 92101
Attention: André Douzdjian,
Director of Finance
Email:
andre.douzdjian@sandag.org

With copies to:

San Diego County Regional
Transportation Commission
401 B Street, Suite 800
San Diego, California 92101
Attention: John Kirk, General
Counsel
Email: john.kirk@sandag.org

U.S. Bank National Association
633 West 5th Street, 24th Floor
Los Angeles, California 90071
Attention: Fonda Hall, Vice
President
E-mail: fonda.hall@usbank.com

Unless otherwise instructed by the TIFIA Lender's Authorized Representative, all notices to the TIFIA Lender should be made by email to the email address noted above for the TIFIA Lender. Notices required to be provided herein shall be provided to such different addresses or to such further parties as may be designated from time to time by a Borrower's Authorized Representative, with respect to notices to the Borrower, or by the TIFIA Lender's Authorized

Representative, with respect to notices to the TIFIA Lender or the Servicer. The Borrower shall make any payments hereunder or under the TIFIA Bond in accordance with Section 9(d) (*Manner of Payment*) and the payment instructions hereafter provided by the TIFIA Lender's Authorized Representative, as modified from time-to-time by the TIFIA Lender. Each such notice, request or communication shall be effective (x) if delivered by hand or by nationally recognized courier service, when delivered at the address specified in this Section 37 (*Notices; Payment Instructions*) (or in accordance with the latest unrevoked written direction from the receiving party) and (y) if given by email, when such email is delivered to the address specified in this Section 37 (*Notices; Payment Instructions*) (or in accordance with the latest unrevoked written direction from the receiving party); provided that notices received on a day that is not a Business Day or after 5:00 p.m. Eastern Time on a Business Day will be deemed to be effective on the next Business Day.

Section 38. Effectiveness. This Agreement shall be effective on the Effective Date.

Section 39. Termination. This Agreement shall terminate upon the irrevocable payment in full in cash by the Borrower of the Outstanding TIFIA Loan Balance, together with all accrued interest and fees with respect thereto; provided, however, that the indemnification requirements of Section 18 (*Indemnification*), the reporting and record keeping requirements of Section 21(b) (*Inspections*) and Section 21(c) (*Reports and Records*), and the payment requirements of Section 29 (*Fees and Expenses*) shall survive the termination of this Agreement as provided in such sections.

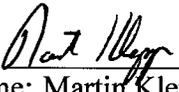
Section 40. Integration. This Agreement constitutes the entire contract between the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

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

**SAN DIEGO COUNTY REGIONAL
TRANSPORTATION COMMISSION**

By: 
Name: Kim Kawada
Title: Chief Deputy Executive Director

**UNITED STATES DEPARTMENT OF
TRANSPORTATION**, acting by and
through the Executive Director of the Build
America Bureau

By: 
Name: Martin Klepper
Title: Executive Director

SCHEDULE I
PROJECT BUDGET

Sources of Funds

Source	Baseline Budget ('000)
FFGA Pay Go	\$560,032
GAN Proceeds	295,637
BAN Proceeds	559,412
TransNet Contribution	398,719
Total	\$1,813,801

Project Eligible Project Costs by Standard Cost Category ("SCC") in Year of Expenditure Dollars

SCC Category	Baseline Budget YOE with Contingency ('000)
SCC 10 - Guideway & Track Elements	\$326,819
SCC 20 - Stations, Stops, Terminals, Intermodal	82,839
SCC 30 - Support Facilities: Yards, Shops, Administrative Buildings	0
SCC 40 - Sitework & Special Conditions	503,011
SCC 50 - Systems	171,350
SCC 60 - ROW, Land, Existing Improvements	101,233
SCC 70 - Vehicles	178,478
SCC 80 - Professional Services	387,954
SCC 90 - Unallocated Contingency	62,117
Total	\$1,813,801
Ineligible Project Costs*	\$0
Total Eligible Project Cost	\$1,813,801

* Detail

SCHEDULE II

CONSTRUCTION SCHEDULE

Milestone	Date
Heavy Construction Duration	57.3 months
AWW Shoofly 1 Complete	March 26, 2017
Reach 14 Track Const. Complete	August 28, 2020
Start MTS Integrated Testing	May 27, 2021
Final Completion by MCTC	August 24, 2021
Revenue Service Date	November 3, 2021
FFGA Latest Revenue Date	November 23, 2022

SCHEDULE III

EXISTING INDEBTEDNESS, EXISTING INTEREST RATE SWAP AGREEMENTS AND EXISTING CREDIT ENHANCEMENTS

Senior Bonds

Summary of Outstanding Debt						
Series	Tax Status	Coupon Type	Original Issue Size	Outstanding Par	Call Option	Final Maturity
2008A	Tax-Exempt	Variable-Rate	\$150,000,000	\$100,575,000	Current	4/1/2038
2008B	Tax-Exempt	Variable-Rate	\$150,000,000	\$100,575,000	Current	4/1/2038
2008C	Tax-Exempt	Variable-Rate	\$150,000,000	\$100,575,000	Current	4/1/2038
2008D	Tax-Exempt	Variable-Rate	\$150,000,000	\$100,575,000	Current	4/1/2038
2010A	Taxable BABs	Fixed-Rate	\$338,960,000	\$338,960,000	Make-Whole	4/1/2048
2010B	Tax-Exempt	Fixed-Rate	\$11,040,000	\$6,925,000	4/1/2020	4/1/2030
2012A	Tax-Exempt	Fixed-Rate	\$420,585,000	\$341,455,000	4/1/2022	4/1/2048
2014A	Tax-Exempt	Fixed-Rate	\$350,000,000	\$340,950,000	4/1/2024	4/1/2048
2016A	Tax-Exempt	Fixed-Rate	\$325,000,000	\$322,235,000	4/1/2026	4/1/2048
Total				\$1,752,825,000		

Senior Parity Obligations – Existing Interest Rate Swaps

Swap Portfolio Overview							
Associated Series	SANDAG Pays	SANDAG Receives	Trade Date	Effective Date	Maturity Date	Notional Outstanding	Bank Counterparty
Series 2008	3.8165%	65% of USD-LIBOR 'til 04/18; SIFMA Swap Index thereafter	05/23/12	05/23/12	04/01/2038	\$134,100,000	Bank of America, N.A. (A1/A+/A+)
Series 2008	3.8165%	65% of USD-LIBOR 'til 04/18; SIFMA Swap Index thereafter	05/23/12	05/23/12	04/01/2038	\$134,100,000	Goldman Sachs Mitsui Marine Derivative Products, L.P. (Aa2/AA-)
Series 2008	3.4100%	65% of USD-	05/23/12	05/23/12	04/01/2038	\$134,100,000	Bank of America,

Swap Portfolio Overview							
Associated Series	SANDAG Pays	SANDAG Receives	Trade Date	Effective Date	Maturity Date	Notional Outstanding	Bank Counterparty
		LIBOR					N.A. (A1/A+/A+)
Total Fixed Payer Swaps						\$402,300,000	
Series 2008	SIFMA Swap Index	107.4% of 3 Month LIBOR	03/19/09	04/01/18	04/01/2038	\$156,600,000	Barclays Bank PLC (A1/A-/A)
Series 2008	SIFMA Swap Index	107.4% of 3 Month LIBOR	03/19/09	04/01/18	04/01/2038	\$156,600,000	Barclays Bank PLC (A1/A-/A)
Total Index Conversion Swaps						\$313,200,000	
Total Combined						\$715,500,000	

Senior Parity Obligations – Credit Enhancements

SANDAG Credit Enhancements			
Associated Series	SBPA Provider	Par Amount	SBPA Expiration
2008A & 2008B	J.P. Morgan Chase Bank NA	\$300,000,000	March 2019
2008C	Mizuho Corporate Bank	\$150,000,000	September 2017
2008D	State Street	\$150,000,000	June 2019

Subordinate Obligations – Subordinate Commercial Paper

Tax-Exempt Subordinate Sales Tax Revenue Commercial Paper Notes	
Series	Amount
Series B	\$75,000,000

Subordinate Parity Obligations – Credit Enhancements

SANDAG Credit Enhancements			
Associated Series	LOC Provider	Par Amount	LOC Expiration
Commercial Paper	MUFG Union Bank, N.A.	\$75,000,000	September 2017

SCHEDULE 14(f) LITIGATION

OPEN PROPERTY ACQUISITION / EMINENT DOMAIN CASES RELATING TO MID-COAST CORRIDOR TRANSIT PROJECT

CASE NUMBER	PARTICIPANT NAME	SANDAG ROLE	FILING DATE	CASE TITLE	CATEGORY	CASE TYPE	CURRENT STATUS
San Diego Superior Court Case No. 37-2016-00009321-CU-EI-CTL	SAN DIEGO ASSOCIATION OF GOVERNMENTS	Plaintiff	3/21/2016	San Diego Association of Governments vs. Anna Avenue Associates LLC	Civil - Unlimited	Eminent domain/ Inverse condemnation	PENDING. Order filed granting Anna Avenue application to withdraw deposit of probable compensation.
San Diego Superior Court Case No. 37-2016-00009651-CU-EI-CTL	SAN DIEGO ASSOCIATION OF GOVERNMENTS	Plaintiff	3/23/2016	San Diego Association of Governments vs. Floit	Civil - Unlimited	Eminent domain/ Inverse condemnation	POST JUDGMENT. Notice of Entry of Judgment filed by SANDAG. Preemptory challenge filed by Armstrong Gardens, Inc.
San Diego Superior Court Case No. 37-2016-00013887-CU-EI-CTL	SAN DIEGO ASSOCIATION OF GOVERNMENTS	Plaintiff	4/27/2016	San Diego Association of Governments vs. PS rose Canyon LLC	Civil - Unlimited	Eminent domain/ Inverse condemnation	PENDING. Notice of Entry of Order filed by SANDAG.
San Diego Superior Court Case No. 37-2016-00018096-CU-EI-CTL	SAN DIEGO ASSOCIATION OF GOVERNMENTS	Plaintiff	5/27/2016	San Diego Association of Governments vs. Gateway Center LP	Civil - Unlimited	Eminent domain/ Inverse condemnation	PENDING. Order for Possession filed by SANDAG.
San Diego Superior Court Case No. 37-2016-00018119-CU-EI-CTL	SAN DIEGO ASSOCIATION OF GOVERNMENTS	Plaintiff	5/27/2016	San Diego Association of Governments vs La Jolla Country Day School	Civil - Unlimited	Eminent domain/ Inverse condemnation	PENDING. Notice of Trial and Related Dates filed by SANDAG.
San Diego Superior Court Case No. 37-2016-00018128-CU-EI-CTL	SAN DIEGO ASSOCIATION OF GOVERNMENTS	Plaintiff	5/27/2016	San Diego Association of Governments vs SDG&E/Good Samaritan Episcopal Church	Civil - Unlimited	Eminent domain/ Inverse condemnation	PENDING. Jury trial scheduled for 10/27/2017.
San Diego Superior Court Case No. 37-2016-00018198-CU-EI-CTL	SAN DIEGO ASSOCIATION OF GOVERNMENTS	Plaintiff	5/27/2016	San Diego Association of Governments vs. Navarra Morena Properties LLC	Civil - Unlimited	Eminent domain/ Inverse condemnation	PENDING. Notice of Ruling on Motion for Possession filed by SANDAG. Jury trial scheduled for 1/5/2018.
San Diego Superior Court Case No. 37-2016-00025263-CU-EI-CTL	SAN DIEGO ASSOCIATION OF GOVERNMENTS	Plaintiff	7/25/2016	San Diego Association of Governments vs Edward C Malone Co-Trustee UDT Dated December 14 1972 known as the Edward C and Barbara J Malone Family Trust	Civil - Unlimited	Eminent domain/ Inverse condemnation	PENDING. Notice of Trial and Related Dates filed by SANDAG. Jury trial scheduled for 12/1/2017.
San Diego Superior Court Case No. 37-2016-00025271-CU-EI-CTL	SAN DIEGO ASSOCIATION OF GOVERNMENTS	Plaintiff	7/25/2016	San Diego Association of Governments vs La Jolla Eastgate Building LP	Civil - Unlimited	Eminent domain/ Inverse condemnation	POST JUDGMENT. Final Order of Condemnation filed by SANDAG.
San Diego Superior Court Case No. 37-2016-00025276-CU-EI-CTL	SAN DIEGO ASSOCIATION OF GOVERNMENTS	Plaintiff	7/25/2016	San Diego Association of Governments vs La Jolla Canyon Gardens LLC	Civil - Unlimited	Eminent domain/ Inverse condemnation	PENDING. Notice of Trial filed by SANDAG. Jury trial scheduled for 1/5/2018.

CASE NUMBER	PARTICIPANT NAME	SANDAG ROLE	FILING DATE	CASE TITLE	CATEGORY	CASE TYPE	CURRENT STATUS
San Diego Superior Court Case No. 37-2016-00030407-CU-EI-CTL	SAN DIEGO ASSOCIATION OF GOVERNMENTS	Plaintiff	8/11/2016	San Diego Association of Governments vs Colony La Paz Condominium Association	Civil - Unlimited	Eminent domain/ Inverse condemnation	PENDING. Request for Dismissal without Prejudice filed by SANDAG. ALL PARTIES NOT INCLUDED.
San Diego Superior Court Case No. 37-2016-00034231-CU-EI-CTL	SAN DIEGO ASSOCIATION OF GOVERNMENTS	Plaintiff	9/29/2016	San Diego Association of Governments vs CWI 2 La Jolla Hotel LP	Civil - Unlimited	Eminent domain/ Inverse condemnation	PENDING. Final Order of Condemnation filed by SANDAG.
San Diego Superior Court Case No. 37-2017-00005568-CU-EI-CTL	SAN DIEGO ASSOCIATION OF GOVERNMENTS	Plaintiff	2/14/2017	San Diego Association of Governments vs Dan Floit, Toys "R" Us (aka Floit II)	Civil - Unlimited	Eminent domain/ Inverse condemnation	PENDING. Proposed Order (re Motion for Possession) received, but not filed, by SANDAG. Motion Hearing scheduled for 08/04/2017.
OTHER CASES							
San Diego Superior Court Case No. 37-2011-00101593-CU-TT-CTL / California Supreme Court Case No. S223603	SAN DIEGO ASSOCIATION OF GOVERNMENTS	Respondent	1/6/2015	Cleveland National Forest Foundation, et al. vs San Diego Association of Governments	Civil	Appeal from CEQA Writ	Argued and submitted for decision before California Supreme Court
San Diego Superior Court Case No. 37-2015-00011360-CU-OR-CTL	SAN DIEGO ASSOCIATION OF GOVERNMENTS	Defendant/ Cross - Complainant	4/3/2015	Caryon Properties LLC vs San Diego Association of Governments	Civil - Unlimited	Other Real Property	SETTLEMENT EXECUTED. DISMISSAL PENDING. Notice of Unconditional Settlement Filed by Caryon Properties, 5/16/17. All court dates vacated. Awaiting filing of Notice of Dismissal.

SCHEDULE 14(t)

INSURANCE

CMGC Construction Contract Insurances

Mid-Coast Transit Constructors **Contractor Controlled Insurance Program (CCIP)** Insurance
Manual - August 7, 2015

Document	Insured	Expiration
Certificate of Liability Insurance Accord 25 – 11/03/2016 Willis Insurance Services of California, Inc. c/o 26 Century Blvd. P.O. Box 305191 Nashville, TN 37230-5191	Mid-Coast Transit Constructors c/o Stacy and Witbeck, Inc. 2800 Harbor Bay Parkway Alameda, CA 94502	A-Commercial 07/24/2020 B-Automobile 07/24/2017 C-Excess 07/24/2020 D- Workers Comp 07/24/2017 E-Prof Liability 09/30/2020
Evidence of Property Insurance Accord 27 – 11/03/2016 Willis Insurance Services of California, Inc. c/o 26 Century Blvd. P.O. Box 305191 Nashville, TN 37230-5191	Mid-Coast Transit Constructors c/o Stacy and Witbeck, Inc. 2800 Harbor Bay Parkway Alameda, CA 94502	05/20/2021
Certificate of Liability Insurance Accord 25 – 08/04/2016 Willis Insurance Services of California, Inc. c/o 26 Century Blvd. P.O. Box 305191 Nashville, TN 37230-5191	San Diego Metropolitan Transit System and SDTI, SDVTI, SDTC, NCTD, BNSF, TASI, and AMTRAK 810 Mission Avenue Oceanside, CA 92054-2599	Railroad Protective Liability 10/01/2020
Westchester Fire Insurance Company Binder ACE Westchester 6600 E. Campus Circle Drive, Suite 300 Irving, TX 75063	Willis Insurance Services of California, Inc. 525 Market Street, Suite 3400 San Francisco, Ca 94105	Railroad Protective Liability 10/01/2020

Borrower and SANDAG Insurance Documents

Document	Insured	Expiration
Certificate of Liability Insurance Accord 25 – 6/7/2017 Alliant Insurance Services, Inc. License No. oC36861 100 Pine Street, 11 th Floor San Francisco, CA 94111	San Diego Association of Governments/South Bay Expressway, LP 401 B Street, Suite 800 San Diego, CA 92101	10/01/2017

Special Excess Liability Policy Declarations for Participants of the Alliant National Municipal Liability Program (ANML) Security National Insurance Company 59 Maiden Lane, 6 th Floor New York, NY 10038	San Diego Association of Governments (SANDAG) and Sourcepoint, San Diego Regional Transportation Commission, Automatic Regional Justice Information System (ARJIS), SR 125/South Bay Expressway 401 B Street, Suite 800 San Diego, CA 92101	10/01/2017
Evidence of Property Insurance Accord 27 – 6/16/2017 Alliant Insurance Services, Inc. License No. oC36861 100 Pine Street, 11 th Floor San Francisco, CA 94111	San Diego Association of Governments 401 B Street, Suite 800 San Diego, CA 92101	07/01/2017
General Property Insurance Westport Insurance Policy Number NAP 0453650 03 Westport Insurance Corporation 2 Waterside Crossing, Suite 200 Windsor, CT 06095	San Diego Association of Governments 401 B Street, Suite 800 San Diego, CA 92101	07/01/2018

MTS Insurance Documents

Document	Insured	Expiration
2017-2018 Excess Liability Insurance Binders and Invoices Alliant Insurance Services 100 Pine Street, 11 th Floor San Francisco, CA 94111	San Diego Metropolitan Transit System 1255 Imperial Avenue, Suite 1000 San Diego, CA 92101-7490	03/01/2018
CSAC Excess Insurance Authority Property Program Evidence of Coverage Alliant Insurance Services, Inc. 1301 Dove Street, Suite 200 Newport Beach, CA 92660	CSAC Excess Insurance Authority (and its member agencies as defined) 75 Iron Point Circle, Suite 200 Folsom, CA 95630	06/29/2018
San Diego Transit Corporation Actuarial Study of the Self Insured Liability Program as of June 30, 2016 Aon Risk Solutions 100 Bayview Circle, Suite 100 Newport Beach, CA 92660	San Diego Metropolitan Transit System 1255 Imperial Avenue, Suite 1000 San Diego, CA 92101	

<p>San Diego Trolley, Inc. Actuarial Study of the Self Insured Liability Program as of June 30, 2016 Aon Risk Solutions 100 Bayview Circle, Suite 100 Newport Beach, CA 92660</p>	<p>San Diego Metropolitan Transit System 1255 Imperial Avenue, Suite 1000 San Diego, CA 92101</p>	
<p>San Diego Metropolitan Transit System. Actuarial Study of the Self Insured Liability Program as of June 30, 2016 Aon Risk Solutions 100 Bayview Circle, Suite 100 Newport Beach, CA 92660</p>	<p>San Diego Metropolitan Transit System 1255 Imperial Avenue, Suite 1000 San Diego, CA 92101</p>	

EXHIBIT A

FORM OF TIFIA BOND

No. R-1

\$537,484,439

**SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION
JUNIOR SUBORDINATE SALES TAX REVENUE BOND
(LIMITED TAX BOND)
2017 TIFIA SERIES**

Holder: UNITED STATES DEPARTMENT OF TRANSPORTATION,
an agency of the United States of America, acting by and through the
Executive Director of the Build America Bureau

Maturity Date: October 1, 2045

Maximum

Principal Amount: FIVE HUNDRED THIRTY-SEVEN MILLION FOUR HUNDRED
EIGHTY-FOUR THOUSAND FOUR HUNDRED THIRTY-NINE
AND NO/100 DOLLARS

Interest Rate:

2.72%

Issue Date: June 27, 2017

The SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION, a public entity duly organized and existing under and pursuant to the laws of the State of California (the "Commission"), for value received, hereby promises to pay (but only out of the Revenues hereinafter referenced) to the order of the UNITED STATES DEPARTMENT OF TRANSPORTATION, acting by and through the Executive Director of the Build America Bureau, and its successors and assigns (the "TIFIA Lender" or the "Holder"), the lesser of (x) the Maximum Principal Amount set forth above and (y) the aggregate unpaid principal amount of all disbursements (the "Disbursements") made by the TIFIA Lender (such lesser amount, together with any interest that is capitalized and added to principal in accordance with the provisions of the TIFIA Loan Agreement, dated June 27, 2017, by and between the Commission and the TIFIA Lender (the "2017 TIFIA Loan Agreement"), being hereinafter referred to as the "Outstanding TIFIA Loan Balance"), together with accrued and unpaid interest (including, if applicable, interest at the Default Rate, as defined in the 2017 TIFIA Loan Agreement) on the Outstanding TIFIA Loan Balance, and all fees, costs and other amounts payable in connection therewith, all as more fully described in the 2017 TIFIA Loan Agreement, which is hereby made a part hereof. Each Disbursement made by the TIFIA Lender to the Commission pursuant to the 2017 TIFIA Loan Agreement, and each prepayment made on account of the Outstanding TIFIA Loan Balance, shall be recorded by or on behalf of the TIFIA Lender and endorsed on the grid attached hereto as Appendix One with a copy to the Commission in accordance with the terms of

the 2017 TIFIA Loan Agreement. The principal hereof shall be payable in the manner and at the place provided in the 2017 TIFIA Loan Agreement in accordance with Appendix Two, as revised from time-to-time in accordance with the 2017 TIFIA Loan Agreement, until paid in full. The TIFIA Lender is hereby authorized to modify the Loan Amortization Schedule included in Appendix Two from time to time in accordance with the terms of the 2017 TIFIA Loan Agreement to reflect the amount of each disbursement made thereunder and the date and amount of principal or interest paid by the Commission thereunder. Absent manifest error, the TIFIA Lender's determination of such matters as set forth on Appendix Two shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Commission's obligations hereunder or under any other TIFIA Loan Document.

Payments hereon are to be made in accordance with Section 9(d) (*Manner of Payment*) and Section 37 (*Notices; Payment Instructions*) of the 2017 TIFIA Loan Agreement as the same become due. Principal of and interest on this 2017 TIFIA Bond shall be paid in funds available on or before the due date and in any lawful coin or currency of the United States of America that at the date of payment is legal tender for the payment of public and private debts.

This 2017 TIFIA Bond has been executed under and pursuant to the 2017 TIFIA Loan Agreement and is issued to evidence the obligation of the Commission under the 2017 TIFIA Loan Agreement to repay the loan made by the TIFIA Lender and any other payments of any kind required to be paid by the Commission under the 2017 TIFIA Loan Agreement or the other TIFIA Loan Documents referred to therein. Reference is made to the 2017 TIFIA Loan Agreement for all details relating to the Commission's obligations hereunder. All capitalized terms used in this 2017 TIFIA Bond and not defined herein shall have the meanings set forth in the 2017 TIFIA Loan Agreement.

This 2017 TIFIA Bond is a fully registered Bond and the principal of and interest on the Bond shall be payable by wire transfer to the Holder hereof in accordance with the 2017 TIFIA Loan Agreement.

This 2017 TIFIA Bond is one of a duly authorized issue of the San Diego County Regional Transportation Commission Junior Subordinate Sales Tax Revenue Bonds (Limited Tax Bond), 2017 TIFIA Series (the "2017 TIFIA Bond") of the series and designation indicated on the face hereof, all of which are being issued pursuant to the provisions of the Section 132310 of the Public Utilities Code of the State of California, as now in effect and as it may from time to time hereafter be amended or supplemented, the 1987 Ordinance and the Sales Tax Extension Ordinance. This 2017 TIFIA Bond is issued pursuant to an Indenture, dated as of March 1, 2008, between the Commission and the Trustee, as supplemented and amended, including as supplemented by a Seventh Supplemental Indenture, dated as of June 1, 2017 (the "Seventh Supplemental Indenture"), between the Commission and the Trustee, authorizing the issuance of the 2017 TIFIA Bond (such indenture as amended and supplemented, including as supplemented by the Seventh Supplemental Indenture, collectively, the "Indenture"). Reference is hereby made to the Indenture, the 2017 TIFIA Loan Agreement and to the Act for a description of the terms on which the 2017 TIFIA Bond is issued and to be issued, the provisions with regard to the nature and extent of the Revenues (as that term is defined in the Indenture), and the rights of the registered owners of the 2017 TIFIA Bond; and all the terms of the Indenture and the Act are

hereby incorporated herein and constitute a contract between the Commission and the registered owner from time to time of this 2017 TIFIA Bond, and to all the provisions thereof the registered owner of this 2017 TIFIA Bond, by its acceptance hereof, consents and agrees. This 2017 TIFIA Bond constitutes a Junior Subordinate Obligation (as defined in the Indenture). Senior Bonds, Parity Obligations, Subordinate Obligations and other Junior Subordinate Obligations (each as defined in the Indenture) may be issued, and indebtedness may be incurred, subject to the conditions and limitations contained in the Indenture and the 2017 TIFIA Loan Agreement.

The 2017 TIFIA Bond and the interest thereon (to the extent set forth in the Indenture and the 2017 TIFIA Loan Agreement), are payable from, and are secured by a subordinate pledge of the proceeds derived by the Commission from the transactions and use tax imposed pursuant to the Act (as more particularly defined in the Indenture, the "Revenues"). The 2017 TIFIA Bond is equally secured by such subordinate pledge of, and subordinate lien upon, the Revenues, and the Revenues constitute a trust fund for the security and payment of the interest on and principal of the 2017 TIFIA Bond, subject to the prior pledge and lien securing Senior Bonds, certain Parity Obligations and Subordinate Obligations; but nevertheless out of Revenues certain amounts may be applied for other purposes as provided in the Indenture.

The 2017 TIFIA Bond is a limited obligation of the Commission and is payable as to principal and interest and as to any premiums upon the redemption thereof, out of Revenues, as provided for in the Indenture. The general fund of the Commission is not liable, and the credit or taxing power (other than as described above) of the Commission is not pledged; for the payment of this 2017 TIFIA Bond or interest thereon. This 2017 TIFIA Bond is not secured by a legal or equitable pledge of, or charge, lien or encumbrance upon, any of the property of the Commission or any of its income or receipts, except the Revenues to the extent set forth in the Indenture.

This 2017 TIFIA Bond may be prepaid at the option of the Borrower in whole or in part (and, if in part, the principal installments and amounts thereof to be prepaid are to be determined in accordance with the 2017 TIFIA Loan Agreement; provided, however, such prepayments shall be in principal amounts of at least \$1,000,000 or any integral multiple of \$1.00 in excess thereof), at any time or from time to time, without penalty or premium, by paying to the TIFIA Lender all or part of the principal amount of the 2017 TIFIA Bond in accordance with the 2017 TIFIA Loan Agreement.

This 2017 TIFIA Bond shall be subject to mandatory prepayment in accordance with the 2017 TIFIA Loan Agreement.

The rights and obligations of the Commission and of the Holder and registered owner of this 2017 TIFIA Bond may be modified or amended at any time in the manner, to the extent, and upon the terms provided in the Indenture and the 2017 TIFIA Loan Agreement.

This 2017 TIFIA Bond is transferable or exchangeable for other authorized denominations by the registered owner hereof, in person or by its attorney duly authorized in writing, at the corporate trust office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this 2017 TIFIA Bond. Upon such transfer a new fully registered 2017 TIFIA Bond without coupons, of authorized denomination or denominations, of the same series, tenor,

maturity and interest rate for the same aggregate principal amount will be issued to the transferee in exchange therefor.

Pursuant to the Seventh Supplemental Indenture, the Holder of this 2017 TIFIA Bond shall at all times be the party to the 2017 TIFIA Loan Agreement having all rights and obligations of the "TIFIA Lender" under the 2017 TIFIA Loan Agreement. The Trustee shall not register any transfer or exchange of this 2017 TIFIA Bond unless the Holder's prospective transferee delivers to the Trustee a letter substantially in the form as set forth in Exhibit C attached to the Seventh Supplemental Indenture.

Any delay on the part of the TIFIA Lender in exercising any right hereunder shall not operate as a waiver of any such right, and any waiver granted with respect to one default shall not operate as a waiver in the event of any subsequent default.

It is hereby certified and recited that any and all acts, conditions and things required to exist, to happen and to be performed, precedent to and in the incurring of the indebtedness evidenced by this 2017 TIFIA Bond, and in the issuing of this 2017 TIFIA Bond, do exist, have happened and have been performed in due time, form and manner, as required by the Constitution and statutes of the State of California, and that this 2017 TIFIA Bond, together with all other indebtedness of the Commission pertaining to the Revenues, is within every debt and other limit prescribed by the Constitution and the statutes of the State of California, and is not in excess of the amount of indebtedness permitted to be issued under the Indenture or the Act.

This 2017 TIFIA Bond is issued with the intent that the federal laws of the United States of America shall govern its construction to the extent such federal laws are applicable and the internal laws of the State of California shall govern its construction to the extent such federal laws are not applicable.

This 2017 TIFIA Bond shall not be entitled to any benefit under the Indenture, or become valid or obligatory for any purpose, until the certificate of authentication hereon endorsed shall have been manually signed by the Trustee.

IN WITNESS WHEREOF, SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION has caused this 2017 TIFIA Bond to be executed in its name and on its behalf by its duly authorized officer by manual or facsimile signature, and this 2017 TIFIA Bond to be dated as of the Issue Date specified above.

**SAN DIEGO COUNTY REGIONAL
TRANSPORTATION COMMISSION**

By _____
Chief Deputy Executive Director

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This is the 2017 TIFIA Bond described in the within mentioned Indenture and registered on the date set forth below.

Dated: June 27, 2017

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Authorized Signatory

ASSIGNMENT

For value received the undersigned hereby sells, assigns and transfers unto

(Name, Address and Tax Identification or Social Security Number of Assignee) the within-registered Bond and hereby irrevocably constitute(s) and appoints(s) _____ attorney, to transfer the same on the registration books of the Trustee with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

Note: Signature(s) must be guaranteed by an eligible guarantor institution.

Note: This signature(s) on this Assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

EXHIBIT B

ANTICIPATED TIFIA LOAN DISBURSEMENT SCHEDULE

<u>Calendar Year</u>	<u>Amount</u>
2020	\$537,484,439

EXHIBIT C

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
AND OTHER RESPONSIBILITY MATTERS—
PRIMARY COVERED TRANSACTIONS**

The undersigned, on behalf of SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION (the “Borrower”), hereby certifies that the Borrower has fully complied with its verification obligations under 2 C.F.R. § 180.320 and hereby further confirms, based on such verification, that, to its knowledge, the Borrower and its principals (as defined in 2 C.F.R. § 180.995):

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;

(b) Have not within a three (3) year period preceding the Effective Date been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

(d) Have not within a three (3) year period preceding the Effective Date had one or more public transactions (federal, state or local) terminated for cause or default.

(e) Capitalized terms used in the certificate and not defined shall have the respective meanings ascribed to such terms in the TIFIA Loan Agreement, dated as of June 27, 2017 (the “Effective Date”), between the TIFIA Lender and the Borrower, as the same may be amended from time to time.

Dated: June 27, 2017

**SAN DIEGO COUNTY REGIONAL
TRANSPORTATION COMMISSION**

By: _____

Name: Kim Kawada

Title: Chief Deputy Executive Director

EXHIBIT D

REQUISITION PROCEDURES

This **Exhibit D** sets out the procedures which the Borrower agrees to follow in submitting Requisitions for the disbursement of TIFIA Loan proceeds in respect of the Eligible Project Costs incurred in connection with the Project. Section 1 sets out the manner in which Requisitions are to be submitted and reviewed. Section 2 through Section 4 set out the circumstances in which the TIFIA Lender may reject or correct Requisitions submitted by the Borrower or withhold a disbursement. The Borrower expressly agrees to the terms hereof, and further agrees that (i) the rights of the TIFIA Lender contained herein are in addition to (and not in lieu of) any other rights or remedies available to the TIFIA Lender under the TIFIA Loan Agreement, and (ii) nothing contained herein shall be construed to limit the rights of the TIFIA Lender to take actions including administrative enforcement action and actions for breach of contract against the Borrower if it fails to carry out its obligations under the TIFIA Loan Agreement during the term thereof.

Section 1. General Requirements. All requests by the Borrower for the disbursement of TIFIA Loan proceeds shall be made by electronic mail or overnight delivery service by submission to the TIFIA Lender, in accordance with Section 37 (*Notices; Payment Instructions*) of the TIFIA Loan Agreement, of a Requisition, in form and substance satisfactory to the TIFIA Lender and completed and executed by the Borrower's Authorized Representative. The form of Requisition is attached as Appendix One to this **Exhibit D**. Supporting documentation should be submitted with the requisition.

The TIFIA Lender agrees to promptly send to the Borrower in accordance with Section 37 (*Notices; Payment Instructions*) of the TIFIA Loan Agreement, an acknowledgement of receipt of each Requisition in the form attached as Appendix Two to this **Exhibit D** setting forth the date of receipt by the TIFIA Lender of such Requisition and setting forth the Business Day on which disbursement will be made absent denial by the TIFIA Lender. All disbursement requests must be received by the TIFIA Lender at or before 5:00 P.M. (EST) on the first (1st) Business Day of a calendar month in order to obtain disbursement by the fifteenth (15th) day of such calendar month or, if either such day is not a Business Day, the next succeeding Business Day. If a Requisition is approved by the TIFIA Lender, the TIFIA Lender will notify the Borrower of such approval and of the amount so approved.

The Borrower must deliver all invoices and records associated with any Eligible Project Costs included in a Requisition delivered by the applicable following date: (i) with respect to Eligible Project Costs incurred by or on behalf of the Borrower prior to, and up to three (3) months after, June 27, 2017 (the "Effective Date"), by the last Business Day of the third (3rd) month immediately following the Effective Date and (ii) with respect to Eligible Project Costs incurred by or on behalf of the Borrower after the one-month period referred to in clause (i) above, by the last Business Day of each third month immediately following such second (2nd) month referred to in clause (i) above.

Section 2. Rejection. A Requisition may be rejected in whole or in part by the TIFIA Lender if it is:

- (a) submitted without signature;
- (b) submitted under signature of a Person other than a Borrower's Authorized Representative;
- (c) submitted after prior disbursement of all proceeds of the TIFIA Loan; or
- (d) submitted without adequate documentation of Eligible Project Costs incurred or paid. Such documentation shall include invoices for costs incurred or paid and the most recent certificate of or report prepared by the engineer of the San Diego Association of Governments ("SANDAG") relating to the construction of the Project (to the extent not previously delivered to the TIFIA Lender).

The TIFIA Lender will notify the Borrower of any Requisition so rejected, and the reasons therefor. Any Requisition rejected for the reasons specified in (a), (b) or (d) above must be resubmitted in proper form in order to be considered for approval. If a Requisition exceeds the balance of the TIFIA Loan proceeds remaining to be disbursed, the request will be treated as if submitted in the amount of the balance so remaining, and the TIFIA Lender will so notify the Borrower.

Section 3. Correction. A Requisition containing an apparent mathematical error will be corrected by the TIFIA Lender, after telephonic or email notification to the Borrower, and will thereafter be treated as if submitted in the corrected amount.

Section 4. Withholding. The TIFIA Lender shall be entitled to withhold approval (in whole or in part) of any pending or subsequent requests for the disbursement of TIFIA Loan proceeds if:

(a) an Event of Default or event that, with the giving of notice or the passage of time or both, would constitute an Event of Default under the TIFIA Loan Agreement shall have occurred and be continuing; or

(b) the Borrower:

(i) knowingly takes any action, or omits to take any action, amounting to fraud or violation of any applicable federal or local criminal law, in connection with the transactions contemplated hereby; or

(ii) SANDAG fail to construct the Project in a manner consistent with the Governmental Approvals with respect to the Project, or with good engineering practices, where such failure prevents or materially impairs the Project from fulfilling its intended purpose, or prevents or materially impairs the ability of the TIFIA Lender to monitor compliance by the Borrower, SANDAG or the San Diego Metropolitan Transit System ("MTS") with applicable federal or local law pertaining to the Project or with the terms and conditions of the TIFIA Loan Agreement, the Direct Agreement, dated as of

June 27, 2017 (the “SANDAG Direct Agreement”), by and among SANDAG, the Borrower and the TIFIA Lender or the Direct Agreement, dated as of June 27, 2017 (the “MTS Direct Agreement”), by and among MTS, the Borrower and the TIFIA Lender; or

(iii) SANDAG or MTS fail to observe or comply with any applicable federal or local law, or any term or condition of the TIFIA Loan Agreement, the SANDAG Direct Agreement or the MTS Direct Agreement; or

(iv) fails to satisfy the conditions set forth in Section 4 (*Disbursement Conditions*) and Section 13(b) (*Conditions Precedent to All Disbursements*) of the TIFIA Loan Agreement; or

(v) fails to deliver documentation satisfactory to the TIFIA Lender evidencing Eligible Project Costs claimed for disbursement at the times and in the manner specified by the TIFIA Loan Agreement; provided, that in such case the TIFIA Lender may, in its sole discretion, partially approve a disbursement request in respect of any amounts for which adequate documentation evidencing Eligible Project Costs has been provided and may, in its sole discretion, disburse in respect of such properly documented amounts.

APPENDIX ONE TO EXHIBIT D

FORM OF REQUISITION

Build America Bureau
Room W12-464
1200 New Jersey Avenue, SE,
Washington, D.C. 20590

Federal Highway Administration
California Division Office
650 Capital Mall
Sacramento, CA 95814
Attention: Division Administrator

Re: MID-COAST CORRIDOR TRANSIT PROJECT (TIFIA – 20171007A)

Ladies and Gentlemen:

Pursuant to Section 4 (*Disbursement Conditions*) of the TIFIA Loan Agreement, dated as of June 27, 2017 (the “**TIFIA Loan Agreement**”), by and between SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION (the “**Borrower**”) and the UNITED STATES DEPARTMENT OF TRANSPORTATION, acting by and through the Executive Director of the Build America Bureau (the “**TIFIA Lender**”), we hereby request disbursement in the amount of \$[_____] in respect of Eligible Project Costs paid or incurred by or on behalf of the Borrower. Capitalized terms used but not defined herein have the meaning set forth in the TIFIA Loan Agreement. In connection with this Requisition the undersigned does hereby represent and certify the following:

1. This Requisition is Requisition number [_____].
2. The requested date of disbursement is [_____] 15, 20[___] (the “**Disbursement Date**”)[, which is the first Business Day following [_____] 15, 20[____]].
3. The amounts previously disbursed under the TIFIA Loan Agreement equal, in the aggregate, \$[_____]. The amounts previously disbursed and to be disbursed under the Indenture as of the date of the requested disbursement equal, in the aggregate, \$[_____].
4. The amounts hereby requisitioned have been paid or incurred by or on behalf of the Borrower for Eligible Project Costs and have not been paid for or reimbursed by any previous disbursement from TIFIA Loan proceeds.
5. The amount of this Requisition, together with all prior Requisitions, does not exceed the amount of the TIFIA Loan, and the amount of this Requisition together with the sum of all disbursements of TIFIA Loan proceeds made and to be made for the current year will not exceed the cumulative disbursements through the end of the current year as set forth in the Anticipated TIFIA Loan Disbursement Schedule.

6. All documentation evidencing the Eligible Project Costs to be reimbursed by the above-requested disbursement has been delivered by the Borrower at the times and in the manner specified by the TIFIA Loan Agreement.
7. The Borrower, the San Diego Association of Governments (“SANDAG”) or the San Diego Metropolitan Transit System (“MTS”) have all Governmental Approvals necessary as of the date hereof and as of the Disbursement Date (immediately after giving effect to the above-requested disbursement of TIFIA Loan proceeds), for the development, construction, operation and maintenance of the Project and each such Governmental Approval is in full force and effect (and is not subject to any notice of violation, breach or revocation).
8. Each of the insurance policies obtained by the Borrower, SANDAG or MTS in satisfaction of the condition in Section 13(a)(xvii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider.
9. The Project has been, and is being, constructed in a manner consistent with all plans, specifications, engineering reports and facilities plans previously submitted to and approved by the TIFIA Lender and the FTA Regional Office and with good engineering practices.
10. The representations and warranties of the Borrower set forth in the TIFIA Loan Agreement and in each other Related Document are true and correct as of the date hereof and as of the Disbursement Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).
11. As of the date hereof and on the Disbursement Date (immediately after giving effect to the above-requested disbursement of TIFIA Loan proceeds), (i) no Event of Default or event of default under any other Related Document and (ii) no event that, with the giving of notice or the passage of time or both, would constitute an Event of Default or event of default under any Related Document, in each case, has occurred and is continuing.
12. No Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred since October 28, 2016 and is continuing.
13. A copy of the most recent report pursuant to Section 10(d) (*Reporting*) of the Direct Agreement, dated as of June 27, 2017, by and among MTS, the Borrower and the TIFIA Lender for the month preceding the date of the applicable Requisition has been delivered to each of the above named addresses.
14. A copy of the monthly construction progress report pursuant to Section 10(d)(i) (*Monthly Construction Progress Report*) of the Direct Agreement, dated as of June 27, 2017, by and among SANDAG, the Borrower and the TIFIA Lender for the month preceding the

date of the applicable Requisition has been delivered to each of the above named addresses.

15. The undersigned acknowledges that if the Borrower makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Government in connection with the Project, the Government reserves the right to impose on the Borrower the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(1)(1), to the extent the Government deems appropriate.
16. A copy of this requisition has been delivered to each of the above named addressees.
17. The undersigned is duly authorized to execute and deliver this requisition on behalf of the Borrower.

[Add wire instructions for Trustee.]

Date: _____

SAN DIEGO COUNTY REGIONAL
TRANSPORTATION COMMISSION

By: _____

Name:

Title: _____

APPENDIX TWO TO EXHIBIT D
FORM OF ACKNOWLEDGMENT OF RECEIPT OF
REQUISITION FOR DISBURSEMENT OF TIFIA LOAN PROCEEDS

[Borrower name and address]

Re: Receipt of Requisition for Disbursement of TIFIA Loan Proceeds

Ladies and Gentlemen:

Pursuant to Section 4 (*Disbursement Conditions*) of the TIFIA Loan Agreement, dated as of [Dated Date], by and between SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION (the “**Borrower**”) and the UNITED STATES DEPARTMENT OF TRANSPORTATION, acting by and through the Executive Director of the Build America Bureau (the “**TIFIA Lender**”), the undersigned authorized representative of the TIFIA Lender hereby acknowledges receipt of the attached Requisition for Disbursement of TIFIA Loan proceeds (the “**Requisition**”) from the Borrower. Capitalized terms used but not defined herein have the meaning set forth in the TIFIA Loan Agreement. In connection therewith, we hereby represent and certify the following:

1. The date of receipt of the Requisition is [_____].
2. Unless this Requisition is denied, disbursement shall be made on or before [_____].

Date: [__]

*On behalf of the TIFIA Lender’s Authorized
Representative*

Name:

Title:

APPENDIX THREE TO EXHIBIT D

[APPROVAL/DISAPPROVAL] OF THE TIFIA LENDER

(To be delivered to the Borrower)

Requisition Number [●] is [approved in the amount of \$[●]] [approved in part in the amount of \$[●]] [not approved]² by the TIFIA Lender (as defined herein) pursuant to Section 4 (*Disbursement Conditions*) of the TIFIA Loan Agreement, dated as of June 27, 2017, by and between SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION (the “**Borrower**”) and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “**TIFIA Lender**”).

Any determination, action or failure to act by the TIFIA Lender with respect to the Requisition set forth above, including any withholding of a disbursement, shall be at the TIFIA Lender’s sole discretion, and in no event shall the TIFIA Lender be responsible for or liable to the Borrower for any and/or all consequence(s) which are the result thereof.

**UNITED STATES DEPARTMENT OF
TRANSPORTATION**, acting by and
through the Executive Director of the Build
America Bureau

By: _____
TIFIA Lender’s Authorized Representative
Name:
Title:
Dated:

² Attached hereto as Exhibit A are reasons for any partial or full denial of approval.

EXHIBIT A TO APPENDIX THREE TO EXHIBIT D
[Insert reasons for any partial or full denial of approval.]

EXHIBIT E

COMPLIANCE WITH LAWS

The Borrower shall, and shall require its contractors and subcontractors at all tiers for the Project to, comply in all material respects with any and all applicable federal and state laws. The following list of federal laws is illustrative of the type of requirements generally applicable to transportation projects. It is not intended to be exhaustive.

(vi) The Americans With Disabilities Act of 1990 and implementing regulations (42 U.S.C. § 12101 *et seq.*; 28 C.F.R. § 35; 29 C.F.R. § 1630);

(vii) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d *et seq.*), and 49 C.F.R. § 21;

(viii) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. § 4601 *et seq.*), with the understanding that the requirements of said Act are not applicable with respect to utility relocations except with respect to acquisitions by the Borrower of easements or other real property rights for the relocated facilities;

(ix) Equal employment opportunity requirements under Executive Order 11246 dated September 24, 1965 (30 F.R. 12319), any Executive Order amending such order, and implementing regulations (29 C.F.R. §§ 1625-27, 1630; 28 C.F.R. § 35; 41 C.F.R. § 60; and 49 C.F.R. § 27);

(x) Restrictions governing the use of federal appropriated funds for lobbying (31 U.S.C. § 1352; 49 C.F.R. Part 20);

(xi) The Clean Air Act, as amended (42 U.S.C. § 7401 *et seq.*);

(xii) The National Environmental Policy Act of 1969 (42 U.S.C. § 4321 *et seq.*);

(xiii) The Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 *et seq.*, as amended by Pub. L. 92-500);

(xiv) The environmental mitigation requirements and commitments made by the Borrower that result in TIFIA Lender's approval of the Final Environmental Impact Statement (issued pursuant to 42 U.S.C. § 4332(2)(C)) and issuance of the Record of Decision for the Project;

(xv) The Endangered Species Act, 16 U.S.C. § 1531, *et seq.*;

(xvi) 23 U.S.C. § 138 and 49 U.S.C. § 303, as applicable;

(xvii) The health and safety requirements set forth in 23 C.F.R. § 635.108;

(xviii) The prevailing wage requirements set forth in 40 U.S.C. § 276a, 23 U.S.C. § 113, as supplemented by 29 C.F.R. § 5, 23 C.F.R. §§ 635.117(f) and 635.118, and FHWA Form 1273 §§ IV and V for those contracts that involve construction of highway improvements;

(xix) The Buy America requirements set forth in 23 U.S.C. § 313 and implementing regulations (23 C.F.R. § 635.410);

(xx) The requirements of 23 U.S.C. § 101 *et seq.* and 23 C.F.R.;

(xxi) The Cargo Preference Act of 1954, as amended (46 U.S.C. §1241(b)), and implementing regulations (46 C.F.R. Part 381); and

(xxii) The applicable requirements of 49 C.F.R. § 26 relating to the Disadvantaged Business Enterprise program.

EXHIBIT F
RESERVED

EXHIBIT G
Mid-Coast Corridor
TIFIA Debt Service Schedule

Initial Principal:	537,484,439.00							Anticipated Substantial Completion:	11/3/2021
Effective Date:	6/27/2017								
Interest Rate:	2.72%								
Period Ending	Beginning Balance	Disbursements	Interest Accrued	Interest Paid	Principal Paid	Prepayments	Total TIFIA Debt Service	Ending Balance	
6/27/2017	-	-	-	-	-	-	-	-	
10/1/2017	-	-	-	-	-	-	-	-	
4/1/2018	-	-	-	-	-	-	-	-	
10/1/2018	-	-	-	-	-	-	-	-	
4/1/2019	-	-	-	-	-	-	-	-	
10/1/2019	-	-	-	-	-	-	-	-	
4/1/2020	-	-	-	-	-	-	-	-	
10/1/2020	-	537,484,439.00	-	-	-	-	-	537,484,439.00	
4/1/2021	537,484,439.00	-	7,289,761.55	-	-	-	-	544,774,200.55	
10/1/2021	544,774,200.55	-	7,429,227.56	-	-	-	-	552,203,428.11	
4/1/2022	552,203,428.11	-	7,489,391.37	-	-	-	-	559,692,819.48	
10/1/2022	559,692,819.48	-	7,632,676.65	-	-	-	-	567,325,496.13	
4/1/2023	567,325,496.13	-	7,694,488.04	-	-	-	-	575,019,984.17	
10/1/2023	575,019,984.17	-	7,841,697.19	-	-	-	-	582,861,681.36	
4/1/2024	582,861,681.36	-	7,926,918.87	-	-	-	-	590,788,600.23	
10/1/2024	590,788,600.23	-	8,034,724.96	-	-	-	-	598,823,325.19	
4/1/2025	598,823,325.19	-	8,121,684.90	-	-	-	-	606,945,010.09	
10/1/2025	606,945,010.09	-	8,277,067.07	8,277,067.07	6,318,934.95	-	14,596,002.02	600,626,075.14	
4/1/2026	600,626,075.14	-	8,146,135.13	8,146,135.13	6,668,806.92	-	14,814,942.05	593,957,268.22	
10/1/2026	593,957,268.22	-	8,099,949.86	8,099,949.86	6,937,216.32	-	15,037,166.18	587,020,051.90	
4/1/2027	587,020,051.90	-	7,961,600.18	7,961,600.18	7,301,123.49	-	15,262,723.67	579,718,928.41	
10/1/2027	579,718,928.41	-	7,905,777.91	7,905,777.91	7,585,886.62	-	15,491,664.53	572,133,041.79	
4/1/2028	572,133,041.79	-	7,781,009.37	7,781,009.37	7,943,030.13	-	15,724,039.50	564,190,011.66	
10/1/2028	564,190,011.66	-	7,672,984.16	7,672,984.16	8,286,915.93	-	15,959,900.09	555,903,095.73	
4/1/2029	555,903,095.73	-	7,539,569.00	7,539,569.00	8,659,729.59	-	16,199,298.59	547,243,366.14	
10/1/2029	547,243,366.14	-	7,462,900.22	7,462,900.22	8,979,387.85	-	16,442,288.07	538,263,978.29	
4/1/2030	538,263,978.29	-	7,300,334.24	7,300,334.24	9,388,588.15	-	16,688,922.39	528,875,390.14	
10/1/2030	528,875,390.14	-	7,212,411.35	7,212,411.35	9,726,844.88	-	16,939,256.23	519,148,545.26	
4/1/2031	519,148,545.26	-	7,041,076.60	7,041,076.60	10,152,268.47	-	17,193,345.07	508,996,276.79	
10/1/2031	508,996,276.79	-	6,941,314.71	6,941,314.71	10,509,930.54	-	17,451,245.25	498,486,346.25	
4/1/2032	498,486,346.25	-	6,779,414.31	6,779,414.31	10,933,599.62	-	17,713,013.93	487,552,746.63	
10/1/2032	487,552,746.63	-	6,630,717.35	6,630,717.35	11,347,991.78	-	17,978,709.13	476,204,754.85	
4/1/2033	476,204,754.85	-	6,458,641.15	6,458,641.15	11,789,748.62	-	18,248,389.77	464,415,006.23	
10/1/2033	464,415,006.23	-	6,333,348.32	6,333,348.32	12,188,767.30	-	18,522,115.62	452,226,238.93	
4/1/2034	452,226,238.93	-	6,133,426.78	6,133,426.78	12,666,520.57	-	18,799,947.35	439,559,718.36	
10/1/2034	439,559,718.36	-	5,994,390.29	5,994,390.29	13,087,556.27	-	19,081,946.56	426,472,162.09	
4/1/2035	426,472,162.09	-	5,784,130.93	5,784,130.93	13,584,044.83	-	19,368,175.76	412,888,117.26	
10/1/2035	412,888,117.26	-	5,630,662.72	5,630,662.72	14,028,035.68	-	19,658,698.40	398,860,081.58	
4/1/2036	398,860,081.58	-	5,424,497.11	5,424,497.11	14,529,081.76	-	19,953,578.87	384,330,999.82	
10/1/2036	384,330,999.82	-	5,226,901.60	5,226,901.60	15,025,980.96	-	20,252,882.56	369,305,018.86	
4/1/2037	369,305,018.86	-	5,008,787.85	5,008,787.85	15,547,887.94	-	20,556,675.79	353,757,130.92	
10/1/2037	353,757,130.92	-	4,824,278.07	4,824,278.07	16,040,747.86	-	20,865,025.93	337,716,383.06	
4/1/2038	337,716,383.06	-	4,580,359.40	4,580,359.40	16,597,641.92	-	21,178,001.32	321,118,741.14	
10/1/2038	321,118,741.14	-	4,379,179.85	4,379,179.85	17,116,491.49	-	21,495,671.34	304,002,249.65	
4/1/2039	304,002,249.65	-	4,123,103.39	4,123,103.39	17,695,003.02	-	21,818,106.41	286,307,246.63	
10/1/2039	286,307,246.63	-	3,904,446.44	3,904,446.44	18,240,931.57	-	22,145,378.01	268,066,315.06	
4/1/2040	268,066,315.06	-	3,645,701.88	3,645,701.88	18,831,856.80	-	22,477,558.68	249,234,458.26	
10/1/2040	249,234,458.26	-	3,389,588.63	3,389,588.63	19,425,133.43	-	22,814,722.06	229,809,324.83	
4/1/2041	229,809,324.83	-	3,116,844.06	3,116,844.06	20,040,098.83	-	23,156,942.89	209,769,226.00	
10/1/2041	209,769,226.00	-	2,860,677.53	2,860,677.53	20,643,619.50	-	23,504,297.03	189,125,606.50	
4/1/2042	189,125,606.50	-	2,565,061.38	2,565,061.38	21,291,800.11	-	23,856,861.49	167,833,806.39	
10/1/2042	167,833,806.39	-	2,288,793.30	2,288,793.30	21,925,921.11	-	24,214,714.41	145,907,885.28	
4/1/2043	145,907,885.28	-	1,978,910.67	1,978,910.67	22,599,024.45	-	24,577,935.12	123,308,860.83	
10/1/2043	123,308,860.83	-	1,681,595.03	1,681,595.03	23,265,009.12	-	24,946,604.15	100,043,851.71	
4/1/2044	100,043,851.71	-	1,360,596.38	1,360,596.38	23,960,206.83	-	25,320,803.21	76,083,644.88	
10/1/2044	76,083,644.88	-	1,034,737.57	1,034,737.57	24,665,877.69	-	25,700,615.26	51,417,767.19	
4/1/2045	51,417,767.19	-	697,365.79	697,365.79	25,388,758.70	-	26,086,124.49	26,029,008.49	
10/1/2045	26,029,008.49	-	354,964.36	354,964.36	26,029,008.49	-	26,383,972.85	-	
Total	-	537,484,439	280,993,823	211,533,252	606,945,010	-	818,478,262	-	

EXHIBIT H-1

OPINIONS REQUIRED OF COUNSEL TO BORROWER

An opinion of the counsel of the Borrower, dated as of the Effective Date, to the effect that: (a) the Borrower is duly formed, validly existing, and in good standing under the laws of the jurisdiction of its organization; (b) the Borrower has all requisite power and authority to conduct its business and to execute and deliver, and to perform its obligations under the Related Documents to which it is a party; (c) the execution and delivery by the Borrower of, and the performance of its respective obligations under, the Related Documents to which it is a party, have been duly authorized by all necessary organizational or regulatory action; (d) the Borrower has duly executed and delivered each Related Document to which it is a party and each such Related Document constitutes the legal, valid and binding obligation of such party; enforceable against such party in accordance with their respective terms; (e) no authorization, consent, or other approval of, or registration, declaration or other filing with any governmental authority of the United States of America or of the State is required on the part of the Borrower for the execution and delivery by such party of, and the performance of such party under, any Related Document to which it is a party other than authorizations, consents, approvals, registrations, declarations and filings that have already been timely obtained or made by the Borrower; (f) the execution and delivery by the Borrower of, and compliance with the provisions of, the Related Documents to which it is a party in each case do not (i) violate the Organizational Documents of the Borrower, (ii) violate the law of the United States of America or of the State or (iii) conflict with or constitute a breach of or default under any material agreement or other instrument known to such counsel to which the Borrower is a party, or to the best of such counsel's knowledge, after reasonable review, any court order, consent decree, statute, rule, regulation or any other law to which the Borrower is subject; (g) the Borrower is not an investment company required to register under the Investment Company Act of 1940, as amended; and (h) to our knowledge after due inquiry, there are no actions, suits, proceedings or investigations against the Borrower by or before any court, arbitrator or any other Governmental Authority in connection with the Related Documents or the Project that are pending.

EXHIBIT H-2

OPINIONS REQUIRED FROM BOND COUNSEL

An opinion of bond counsel, dated as of the Effective Date, to the effect that: (a) each of the TIFIA Bond, the Indenture, the Seventh Supplemental Indenture (including the amendments to the Indenture included in the Seventh Supplemental Indenture) and the Subordinate Indenture has been duly authorized, executed, and delivered by the Borrower in accordance with the Organizational Documents of the Borrower and in compliance with all applicable laws; (b) each of the TIFIA Bond, the Indenture, the Seventh Supplemental Indenture and the Subordinate Indenture is in full force and effect and constitutes the legal, valid, and binding obligation of the Borrower, enforceable in accordance with its respective terms and conditions; (c) the TIFIA Bond is secured by the Trust Estate and is a Bond entitled to the benefits of a Bond under the Indenture, enforceable under the laws of the State without any further action by the Borrower or any other Person; (d) the Indenture creates the valid and binding assignment and pledge of the Trust Estate to secure the payment of the principal of, interest on, and other amounts payable in respect of, the TIFIA Bond, irrespective of whether any party has notice of the pledge and without the need for any physical delivery, recordation, filing or further act; (e) all actions by the Borrower that are required for the use of Pledged Revenues as required under the Indenture and under the TIFIA Loan Agreement have been duly and lawfully made; (f) the Borrower has complied with the requirements of State law to lawfully pledge the Trust Estate and use the Pledged Revenues as required by the terms of the Indenture and the TIFIA Loan Agreement; and (h) and the Borrower is not entitled to claim governmental immunity in any breach of contract action under the TIFIA Loan Agreement or the TIFIA Bond or by the Trustee under the Indenture Documents.

EXHIBIT I

RESERVED

EXHIBIT J

FORM OF CERTIFICATE OF TRUSTEE

SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION

TIFIA Bond, Mid-Coast Corridor Transit Project (TIFIA – 20171007A)

The undersigned, U.S. Bank National Association (the “*Trustee*”), by its duly appointed, qualified and acting Vice President, certifies with respect to the above referenced bond (the “*TIFIA Bond*”) dated as of June 27, 2017, as follows (capitalized terms used in this Certificate which are not otherwise defined shall have the meanings given to such terms in the Indenture (as defined below)):

1. That the Trustee is a national banking association duly organized and validly existing under the laws of the United States of America and is in good standing under the laws of the United States of America.
2. All approvals, consents and orders of any governmental authority or agency having jurisdiction in the matter known to the Trustee which would constitute a condition precedent to the performance by the Trustee of its duties and obligations under the documents pertaining to the issuance of the TIFIA Bond have been obtained by the Trustee and are in full force and effect.
3. That the documents pertaining to the issuance of the TIFIA Bond to which the Trustee is a party were executed and the TIFIA Bond was authenticated on behalf of the Trustee by one or more of the persons whose names and offices appear on Annex One attached hereto and made part hereof, that each person was at the time of the execution of such documents and the authentication of the TIFIA Bond and now is duly appointed, qualified and acting incumbent of his or her respective office, that each such person was authorized to execute such documents and to authenticate the TIFIA Bond, and that the signature appearing after the name of each such person is a true and correct specimen of that person’s genuine signature.
4. That the undersigned is authorized to act as Trustee and accept the trusts conveyed to it under the Indenture (“*Trusts*”), has accepted the Trusts so conveyed and in so accepting the Trusts and so acting is in violation of no provision of its articles of association or bylaws, any law, regulation or court or administrative order or any agreement or other instrument known to the Trustee to which it is a party or by which it may be bound.
5. That attached to this Certificate as Annex Two is a full, true and correct copy of the bylaws of the Trustee and other applicable documents that evidence the Trustee’s trust powers and the authority of the officers referred to above to act on behalf of the Trustee; and that these excerpts and other applicable documents were in effect on the date or dates such officers acted and remain in full force and effect today, and such excerpts and documents have not been amended since the date of the last amendment thereto shown on any such copy, as applicable.

6. That receipt is acknowledged of all instruments, certifications and other documents or confirmations required to be received by the Trustee pursuant to Section 3.10 of that certain Indenture, dated as of March 1, 2008, as supplemented and amended, including as supplemented by the Seventh Supplemental Indenture, dated as of June 1, 2017 (collectively, the “**Indenture**”), between San Diego County Regional Transportation Commission (the “**Borrower**”) and the Trustee.
7. That receipt is also acknowledged of that certain TIFIA Loan Agreement, dated as of June 27, 2017 (the “**TIFIA Loan Agreement**”), between the Borrower and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “**TIFIA Bondholder**”).
8. That the Trustee also accepts its appointment and agrees to perform the duties and responsibilities of Trustee for and in respect of the TIFIA Bond as set forth in the Indenture and the TIFIA Loan Agreement, including from time to time redeeming all or a portion of the TIFIA Bond as provided in Section 10 of the Indenture. In accepting such duties and responsibilities, the Trustee shall be entitled to all of the privileges, immunities, rights and protections set forth in Section 8.01 of the Indenture.
9. That all funds and accounts for the payment of the TIFIA Bond pursuant to the Indenture (including, but not limited to, 2017 TIFIA Debt Service Account) have been established as provided in the Indenture.

[SIGNATURE PAGE FOLLOWS]

Dated: June 27, 2017

U.S. BANK NATIONAL ASSOCIATION

By: _____

Name: Fonda Hall

Title: Vice President

ANNEX ONE TO EXHIBIT J
OFFICERS OF TRUSTEE

ANNEX TWO TO EXHIBIT J
RESOLUTIONS OF BOARD OF DIRECTORS OF TRUSTEE

EXHIBIT K

FORM OF BORROWER'S OFFICER'S CERTIFICATE

Dated: June 27, 2017

Reference is made to that certain TIFIA Loan Agreement, dated as of June 27, 2017 (the "TIFIA Loan Agreement"), by and among San Diego County Regional Transportation Commission (the "Borrower") and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the "TIFIA Lender"). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the TIFIA Loan Agreement.

The undersigned, Kim Kawada, as a Borrower's Authorized Representative, does hereby certify on behalf of the Borrower and not in her personal capacity, as of the date hereof:

- (a) in satisfaction of Section 13(a)(ii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit A are complete and fully executed copies of each Indenture Document, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date, and each such agreement is in full force and effect, has not been amended, restated, modified or supplemented except as listed on Exhibit A and all conditions contained in such documents to the closing of the transactions contemplated thereby have been fulfilled or effectively waived by the TIFIA Lender in its sole discretion;
- (b) in satisfaction of Section 13(a)(vii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit B is an incumbency certificate that lists all persons, together with their positions and specimen signatures, who are duly authorized by the Borrower to execute the Related Documents to which the Borrower is or will be a party, and who have been appointed a Borrower's Authorized Representative in accordance with Section 26 (*Borrower's Authorized Representative*) of the TIFIA Loan Agreement;
- (c) in satisfaction of Section 13(a)(viii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, the funds forecasted to be available under the Base Case Projections will be sufficient to pay all Total Project Costs necessary to achieve Substantial Completion;
- (d) in satisfaction of Section 13(a)(ix) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, the Borrower has duly executed the Direct Agreement, dated as of June 27, 2017, by and among the TIFIA Lender, the Borrower and the San Diego Association of Governments, and the Direct Agreement, dated as of June 27, 2017, by and among the TIFIA Lender, the Borrower and the San Diego Metropolitan Transit System, and each such agreement is in full force and effect and has not been amended, restated, modified or supplemented;
- (e) in satisfaction of Section 13(a)(xi) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, the Borrower, MTS and/or SANDAG have obtained all Governmental

Approvals necessary to commence construction of the Project and each such Governmental Approval is final and non-appealable and in full force and effect (and is not subject to any notice of violation, breach or revocation);

- (f) in satisfaction of Section 13(a)(xii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit C is the Base Case Financial Model, which Base Case Financial Model (i) demonstrates that projected Sales Tax Revenues are sufficient to meet the Loan Amortization Schedule and (ii) demonstrates a Debt Service Coverage Ratio for each Calculation Period through the Final Maturity Date that is not less than 1.75 to 1.00;
- (g) in satisfaction of Section 13(a)(xiv) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, (A) attached hereto as Exhibit D is a true, correct and complete copy of the final NEPA determination, which document has not been revoked or amended on or prior to the date hereof and (B) has satisfied all applicable requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*) and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*);
- (h) in satisfaction of Section 13(a)(xvi) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, (i) the Borrower's Federal Employer Identification Number is 68-0162675 and attached hereto as Exhibit E-1 is evidence thereof, (ii) the Borrower's Data Universal Numbering System number is 078387711, and (iii) the Borrower has registered with, and obtained confirmation of active registration status from, the federal System for Award Management (www.SAM.gov), and attached hereto as Exhibit E-2 is evidence of each of (ii) and (iii);
- (i) in satisfaction of Section 13(a)(xvii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit F are true, correct and complete copies of certificates of insurance that demonstrate satisfaction of the insurance requirements of Section 16(f) (*Insurance*) of the TIFIA Loan Agreement, Section 7(b) of the SANDAG Direct Agreement and Section 7(c) of the MTS Direct Agreement;
- (j) in satisfaction of Section 13(a)(xviii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as (i) Exhibit G-1 is a copy of the Borrower's Organizational Documents, as in effect on the Effective Date (and certified by the Secretary of State of the State, to the extent applicable), which Organizational Documents are in full force and effect and have not been amended since the date of the last amendment thereto shown on the certificate, (ii) Exhibit G-2 is a copy of all resolutions authorizing the Borrower to execute and deliver, and to perform its respective obligations under, the TIFIA Loan Documents to which it is a party, and such resolutions have not been subsequently modified, rescinded or amended, are in full force and effect in the form adopted, and are the only resolutions adopted by the Borrower relating to the matters described therein, and (iii) as Exhibit G-3 is a copy of such further instruments and documents as are necessary, appropriate or advisable to effectuate the foregoing resolutions and to consummate and implement the transactions contemplated by such resolutions and the TIFIA Loan Documents;

- (k) in satisfaction of Section 13(a)(xx) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit H are complete and fully executed copies of each performance security instrument delivered to or by the Borrower or any other Borrower Related Party pursuant to any Principal Project Contract as of the Effective Date, each of which performance security instruments is in compliance with the requirements for such performance security instrument pursuant to the applicable Principal Project Contract and is in full force and effect;
- (l) the representations and warranties of the Borrower set forth in the TIFIA Loan Agreement and in each other Related Document to which the Borrower is a party are true and correct on and as of the date hereof, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date; and
- (m) the maximum principal amount of the TIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed thirty-three percent (33%) of reasonably anticipated Eligible Project Costs and (ii) as required pursuant to § 603(b)(9) of the Act, the total federal assistance provided to the Project, including the maximum principal amount of the TIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Eligible Project Costs.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the date first mentioned above.

**SAN DIEGO COUNTY REGIONAL
TRANSPORTATION COMMISSION**

By: _____

Name: Kim Kawada

Title: Authorized Representative

Exhibit A to
FORM OF BORROWER'S OFFICER'S CERTIFICATE
INDENTURE DOCUMENTS

- 1) Indenture, dated as of March 1, 2008, between the Borrower and U.S. Bank National Association, as trustee (the "Trustee"), as amended and supplemented by the First Supplemental Indenture, dated as of March 1, 2008, between the Borrower and the Trustee, the Second Supplemental Indenture, dated as of July 1, 2008, between the Borrower and the Trustee, the Third Supplemental Indenture, dated as of October 1, 2010, between the Borrower and the Trustee, the Fourth Supplemental Indenture, dated as of June 1, 2012, between the Borrower and the Trustee, the Fifth Supplemental Indenture, dated as of September 1, 2014, between the Borrower and the Trustee, and the Sixth Supplemental Indenture, dated as of August 1, 2016, between the Borrower and the Trustee.

(See Item Number 2 of the Closing Proceedings)

- 2) Seventh Supplemental Indenture, dated as of June 1, 2017, between the Borrower and the Trustee.

(See Item Number 3 of the Closing Proceedings)

- 3) Amended and Restated Subordinated Indenture, between the Borrower and the Trustee dated as of November 1, 2005, as amended and supplemented by the First Supplement to the Amended and Restated Subordinate Indenture, between the Borrower and the Subordinate Trustee, dated as of March 27, 2008, the Second Supplement to the Amended and Restated Subordinate Indenture, between the Borrower and the Subordinate Trustee, dated as of October 1, 2010, as amended and supplemented from time to time.

(See Item Number 12 of the Closing Proceedings)

- 4) Standby Bond Purchase Agreement, among the Borrower, the Trustee and JPMorgan Chase Bank, National Association ("JPMorgan"), dated March 27, 2008, in connection with the Borrower's Sales Tax Revenue Bonds (Limited Tax Bonds), 2008 Series A and 2008 Series B, as amended by the First Amendment to Standby Bond Purchase Agreement, among the Borrower, the Trustee and JPMorgan, dated March 11, 2009, the Second Amendment to Standby Bond Purchase Agreement, among the Borrower, the Trustee and JPMorgan, dated March 10, 2010, the Third Amendment to Standby Bond Purchase Agreement, among the Borrower, the Trustee and JPMorgan, dated March 1, 2011, the Fourth Amendment to Standby Bond Purchase Agreement, among the Borrower, the Trustee and JPMorgan, dated March 1, 2012, the Fifth Amendment to Standby Bond Purchase Agreement, among the Borrower, the Trustee and JPMorgan, dated as of February 21, 2014, and the Sixth Amendment to the Standby Bond Purchase Agreement, among the Borrower, the Trustee and JPMorgan, dated March 1, 2017.

(See Item Number 13 of the Closing Proceedings)

- 5) Standby Bond Purchase Agreement, among the Borrower, the Trustee and Mizuho Corporate Bank, Ltd., acting through its New York Branch, dated as of September 1, 2011, in connection with the Borrower's Sales Tax Revenue Bonds (Limited Tax Bonds), 2008 Series C, as extended by the Notice of Extension dated August 27, 2014.

(See Item Number 14 of the Closing Proceedings)

- 6) Standby Bond Purchase Agreement, among the Borrower, the Trustee, State Street Bank and Trust Company ("State Street") and California State Teachers' Retirement System ("CalSTRS"), dated as of September 28, 2011, in connection with the Borrower's Sales Tax Revenue Bonds (Limited Tax Bonds), 2008 Series D, as amended by the First Amendment to Standby Purchase Agreement, dated June 4, 2015, among the Borrower, the Trustee, State Street and CalSTRS.

(See Item Number 15 of the Closing Proceedings)

- 7) Union Bank, N.A. Irrevocable Transferrable Direct-Pay Letter of Credit, No. S322185M, dated September 19, 2012, as extended on September 11, 2015 and August 18, 2016.

(See Item Number 16 of the Closing Proceedings)

- 8) ISDA Master Agreement, along with the Schedule, the ISDA Credit Support Annex to Schedule and Confirmation, each between the Borrower and Bank of America, N.A. ("Bank of America") and dated as of November 22, 2005, and the Confirmation, dated as of May 23, 2012.

(See Item Number 17 of the Closing Proceedings)

- 9) ISDA Master Agreement, along with the Schedule, the ISDA Credit Support Annex to Schedule, each dated November 22, 2005, and Confirmation, dated November 29, 2005, each between the Borrower and Goldman Sachs Mitsui Marine Derivative Products, L.P., and the Confirmation, dated May 23, 2012.

(See Item Number 18 of the Closing Proceedings)

- 10) ISDA Master Agreement, along with the Schedule, the ISDA Credit Support Annex to Schedule and Confirmation, each between the Borrower and Merrill Lynch Capital Services, Inc. ("Merrill Lynch") and the Borrower and dated as of November 22, 2005, the ISDA Novation Agreement, dated as of August 17, 2011, between Merrill Lynch and the Bank of America, and the Confirmation, dated as of May 23, 2012.

(See Item Number 19 of the Closing Proceedings)

11) ISDA Master Agreement, along with the Schedule, the ISDA Credit Support Annex to Schedule and Confirmation, each between the Borrower and Barclays Bank PLC and dated as of March 19, 2009.

(See Item Number 20 of the Closing Proceedings)

**Exhibit B to
FORM OF BORROWER'S OFFICER'S CERTIFICATE**

INCUMBENCY CERTIFICATE

The undersigned certifies that she is the Clerk of SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION, a public agency created under the laws of the State of California, (the "Borrower"), and as such she is authorized to execute this certificate and further certifies that the following persons have been elected or appointed, are qualified, and are now acting as officers or authorized persons of the Borrower in the capacity or capacities indicated below, and that the signatures set forth opposite their respective names are their true and genuine signatures. She further certifies that any of the officers listed below is authorized to sign agreements and give written instructions with regard to any matters pertaining to the TIFIA Loan Documents and/or the Indenture Documents as the Borrower's Authorized Representative (each as defined in that certain TIFIA Loan Agreement, dated as of the date hereof, between the Borrower and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau):

<u>Name</u>	<u>Title</u>	<u>Signature</u>
Gary L. Gallegos	Executive Director	_____
Kim Kawada	Chief Deputy Executive Director	_____
André Douzджian	Director of Finance	_____

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this _____ day of June, 2017.

**SAN DIEGO COUNTY REGIONAL
TRANSPORTATION COMMISSION**

By: _____
Name: Tessa Ann Lero
Title: Clerk

**Exhibit C to
FORM OF BORROWER'S OFFICER'S CERTIFICATE**

Base Case Financial Model

**Exhibit D to
FORM OF BORROWER'S OFFICER'S CERTIFICATE
NEPA**

**Exhibit E-1 to
FORM OF BORROWER'S OFFICER'S CERTIFICATE**

Federal Employer Identification Number

**Exhibit E-2 to
FORM OF BORROWER'S OFFICER'S CERTIFICATE
DUNS and SAM**

**Exhibit F to
FORM OF BORROWER'S OFFICER'S CERTIFICATE
Insurance**

**Exhibit G-1 to
FORM OF BORROWER'S OFFICER'S CERTIFICATE**

Organization Documents

**Exhibit G-2 to
FORM OF BORROWER'S OFFICER'S CERTIFICATE**

Resolutions

**Exhibit G-3 to
FORM OF BORROWER'S OFFICER'S CERTIFICATE**

Additional Documents

**Exhibit H to
FORM OF BORROWER'S OFFICER'S CERTIFICATE
Performance Security Instrument**

EXHIBIT L

FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION

[Letterhead of Borrower]

[Date]

Build America Bureau
Room W12-464
1200 New Jersey Avenue, SE
Washington, D.C. 20590
Attention: Director

Project: Mid-Coast Corridor Transit Project (TIFIA – 20171007A)

Dear Director:

This Notice is provided pursuant to Section 16(g)(i)(a) (*Substantial Completion*) of that certain TIFIA Loan Agreement (the “TIFIA Loan Agreement”), dated as of June 27, 2017, by and between San Diego County Regional Transportation Commission (the “**Borrower**”) and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “**TIFIA Lender**”).

Unless otherwise defined herein, all capitalized terms in this Notice have the meanings assigned to those terms in the TIFIA Loan Agreement.

I, the undersigned, in my capacity as the Borrower’s Authorized Representative and not in my individual capacity, do hereby certify to the TIFIA Lender that:

- (a) on [insert date Substantial Completion requirements were satisfied], the Project satisfied each of the requirements for Substantial Completion set forth in the *[Insert reference to the concession agreement, design-build or similar agreement for the Project]*;
- (b) Substantial Completion has been declared under each of the above-referenced agreements and copies of the notices of Substantial Completion under such agreements are attached to this certification; and
- (c) Substantial Completion, as defined in the TIFIA Loan Agreement, has been achieved.

[Borrower’s Authorized Representative]

Name:
Title:

EXHIBIT M

**CERTIFICATION REGARDING THE PROHIBITION ON THE USE OF
APPROPRIATED FUNDS FOR LOBBYING**

The undersigned, on behalf of SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION, hereby certifies, to the best of his or her knowledge and belief, that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Borrower, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of the TIFIA Loan.

(b) If any funds other than proceeds of the TIFIA Loan have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the TIFIA Loan, the Borrower shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) The Borrower shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when the TIFIA Lender entered into this Agreement. Submission of this certification is a prerequisite to the effectiveness of this Agreement imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Dated: June 27, 2017

**SAN DIEGO COUNTY REGIONAL
TRANSPORTATION COMMISSION³**

By: _____
Name: Kim Kawada
Title: Chief Deputy Executive Director

³ To be executed by Borrower's Authorized Representative.