

**NATCHITOCHEES CITY COUNCIL MEETING  
AUGUST 10, 2009 - 7:00 P.M.**

**AGENDA**

1. **CALL TO ORDER**
2. **INVOCATION**
3. **PLEDGE OF ALLEGIANCE**
4. **READING AND APPROVAL OF THE MINUTES OF JULY 27, 2009**
  
5. **SPECIAL RECOGNITION:**  
Tom Porter and troops of the 2<sup>nd</sup> Squadron of the 108 Calvary Regiment, Alpha Troop
  
6. **BIDS – OPEN:**  
**#045 Mims** Ordinance Authorizing the Mayor to Open Bids for the Purchase of a Thirty-Seven (37') Articulating Aerial Device/ Bucket Truck (Bid #0483)
  
7. **BIDS – ADVERTISE:**  
**#084 Mims** Resolution Authorizing the Mayor to Advertise for Bids for Potassium Permanganate, 25kg Containers Only, For the Water Treatment Plant (Bid No. 0485)  
  
**#085 Mims** Resolution Authorizing the Mayor to Advertise and Accept Bids for Two (2) 69KV Circuit Breakers for The Dixie Street Substation (Bid No. 0486)
  
8. **ORDINANCE – INTRODUCTION**  
**#046 Payne** An Ordinance Authorizing The Mayor Of The City Of Natchitoches, Wayne McCullen, To Enter Into An Agreement For The Purchase And Sale Of NOx Emission Allowances With Victoria WLE, LP, And Approving Of The Terms And Conditions Of Same All After Due Compliance With The Law And Further Providing For Advertising And For An Effective Date
  
9. **ORDINANCES – FINAL:**  
**#043 Nielsen** An Ordinance Authorizing The Incurring Of Debt And Issuance Of A Utilities Revenue Bond, Series 2009 In An Amount Not To Exceed \$1,183,000, By The City Of Natchitoches, State Of Louisiana; Employing Bond Counsel, And Providing For Other Matters In Connection Therewith  
  
**#044 Morrow** An Ordinance Authorizing The City Of Natchitoches, State Of Louisiana, To Borrow Not Exceeding Five Million Dollars (\$5,000,000) Of Utilities Revenue Bonds, Series 2009, For The Purpose Of The Cost Of Constructing And Acquiring Improvements And Extensions To Its Combined Waterworks Plant And System, Electric Power And Light Plant And System, And Sewer System Of Said City; Authorizing The Issuance Of The City's Utilities Revenue Bonds, Series 2009, To Evidence Said Debt; Authorizing The Execution Of A Loan And Pledge Agreement With The Louisiana Department Of Health And Hospitals; Providing For The Sale And Delivery Of Said Bonds To The Louisiana Department Of Health And Hospitals; Prescribing The Form, Fixing The Details And Providing For The Payment Of Principal Of And Interest On Such Bonds And Entering Into Certain Covenants And Agreements In Connection With The Security And Payment Of Said Bonds; And Providing For Other Matters In Connection Therewith
  
10. **RESOLUTIONS:**  
**#083 McCain** Resolution to Correct Computation Error Made in Change Order No. 1 and Dated May 11, 2009 Between the City of Natchitoches and Regional Construction, L.L.C. for the 2008 Street Overlay Program (Bid No. 0470)
  
11. **OTHER BUSINESS:**
12. **ADJOURNMENT:**

**NOTICE TO THE PUBLIC**

In accordance with the Americans with Disabilities Act, if you need special assistance, please contact the City Clerk's Office at (318) 352-2772 describing the assistance that is necessary.

If you wish to address the Council, please complete the "Public to Address the Council Meeting" form located on the Clerk's table at the entrance of the meeting room.

**PROCEEDINGS OF THE CITY COUNCIL  
OF THE CITY OF NATCHITOCHEES, STATE OF LOUISIANA,  
REGULAR MEETING HELD ON  
MONDAY, AUGUST 10, 2009, AT SEVEN O'CLOCK, (7:00) P.M.**

The City Council of the City of Natchitoches met in legal and regular session at the Natchitoches Arts Center, 716 Second Street, Natchitoches, Louisiana, on Monday, August 10, 2009, at 7:00 p.m.

There were present: Councilman at Large, Don Mims, Jr., Councilmen; Jack McCain, Larry Payne, Dale Nielsen and Councilwoman Sylvia Morrow

The Mayor welcomed those in attendance and also the radio audience.

The Mayor asked everyone to rise for the Invocation given by Mr. Micky Dove, Chief of Police, followed by the Pledge of Allegiance lead by Mr. Mims.

The Mayor then called for the reading of the Minutes. Mr. McCain made a motion to dispense with the Reading of the Minutes, and Mr. Nielsen seconded the motion. The roll call vote was as follows:

AYES: McCain, Nielsen, Mims, Morrow, Payne  
NAYS: None  
ABSENT: None

The Mayor declared the Motion as PASSED.

The Mayor then introduced Captain Tom Porter, a local serviceman with the Second Squadron of the 108<sup>th</sup> Cavalry Regiment, Alpha Troop. Captain Porter reported that 132 soldiers from the Louisiana Guard will be deploying to Iraq, and his regiment, headquartered out of Shreveport, is part of that brigade, with one of the line troops being from Natchitoches. He said all of their soldiers will report in early January, and will probably go to Camp Shelby, Mississippi for battle drill training, and once they become combat validated, will return home sometime in March and then deploy to Iraq. He said they have been notified that they have three potential missions, being convoy security, VIP security, and base defense. He said that they do not really have a need at this time, but as they get closer to deployment, and while they are deployed, there are things that people in the community can do for them. He advised that they have a family support group made up of the wives that are left behind as they are an all-male unit, and most of these women have children. He said the military does a really good job of preparing them for their husband's absence, but it would still be helpful if there were some people in the community that would make themselves available during the family readiness group meetings which will begin in October to be points of contact for these women. He said anyone wishing to help can reach him at the armory, at 357-3195.

The Mayor then announced that he, along with members of the Council and others from the City, participated in the Louisiana Municipal Association Conference held this past week, and they prospered a lot from the seminars and workshops that were put on. He advised that Community Service Awards were presented at the culmination of the event with the City of Natchitoches being singled out as a winner in the 10,000 to 25,000 population division in community service. He said the City submitted the downtown revitalization and Front Street Project as the project to be evaluated this year, and were fortunate that everyone thought it was an outstanding achievement. The Mayor then presented each of the Councilpersons with their plaques from the LMA.

The Mayor then called on Mr. Jerry Osborne, the City's Bond Attorney, to address the bond issues up for final voting. Mr. Osborne said the first bond is for issuing a \$1,183,000.00 revenue bond which will be payable from the sewer system, and which will be forgiven. He said this will really be a grant, but it's done in the form of the City borrowing the money, but not having to pay it back. He said it will require the Utility Department and their engineers to follow all the rules set out for construction and awarding the bids.

Mr. Osborne advised that the second bond provides the issuance of \$5,000,000.00 of Utilities Revenue Bonds which will be payable from the Utility System just like Utilities Revenue Bonds issued in the past. He said they will be a claim on the revenues of the Utility System, and the City will have to levy sufficient rates and charges to pay the operation and maintenance costs of the utility system and provide enough money left over to pay the other outstanding bonds, plus these bonds. He said these will have some nice elements to them, and one of the nice elements is that part of the Utilities Revenue Bonds are going to be subject to forgiveness and the remaining part will be at 3.45 percent interest. Of the 3.45 percent interest, 2.95 percent will be subject to a 30 percent rebate from the federal government. He said in issuing these bonds, to the extent they are not forgiven, the federal government is going to send the Finance Director a check every time there is an interest payment period in the amount of 30 percent of the interest falling due on that date. He advised that Ordinance 44 will provide for the agreements that the Mayor will sign after it has been approved by the Council. One of these is a commitment agreement where the City and the DHH agree to do this borrowing, and the other is a loan and pledge agreement that describes all the provisions that have to be attended to in doing the construction on qualifying the project that fits under the ARRA Act, and all the other matters necessary to satisfy all the federal rules on environmental work and so forth that are attached to most government agreements. He said he hopes the Council feels that even with having to attend to all of those extra items that the effective interest rate that the City will pay will be a very small one, and this is an opportunity that doesn't come all the time. He said it's only going to be in existence for two years, and then, unless it's renewed, the ARRA Act will pass on and there won't be any more subsidy, and there won't

be any of these additional funds to be given out for grants unless they devise a new grant program.

Mr. McCain asked if the \$5,000,000.00 bonds will be sold to bondholders on the open market. Mr. Osborne said they would be sold to the Department of Health and Hospitals for the State of Louisiana, and they have a revolving loan fund. He said the reason we are able to sell it to them is that the federal government sends them money each year to subsidize this fund, and they lend out money which is now being paid back. He advised that this year, the federal government gave them another grant in addition to the \$14,000,000.00 they normally give them, so they have more money than they've had before, and they can forgive a portion of the borrowing, and some of the money they may not, so we will probably have to give them two different certificates.

He reiterated that one issue being considered is a grant, with no interest and no repayment, and the other one is a loan where even if it all has to be paid back, it's at 2.72 percent.

Ms. Morrow asked how much of it is a grant. Mr. Osborne confirmed that the \$1,183,000.00 is a grant, and of the \$5,000,000.00, there is a chance that \$1,000,000.00 could be a grant, but it's not assured yet.

The Meeting continued with Ordinances, as follows:

The following entitled Ordinance having been previously introduced on July 27, 2009, notice of introduction having been published in the City's official journal on July 31, 2009 and a public hearing on the adoption thereof having been held on August 10, 2009, was offered for final adoption by Mr. Nielsen and seconded by Mr. Payne:

**ORDINANCE NO. 043 OF 2009**

**AN ORDINANCE AUTHORIZING THE INCURRING OF DEBT AND ISSUANCE OF A UTILITIES REVENUE BOND, SERIES 2009 IN AN AMOUNT NOT TO EXCEED \$1,183,000, BY THE CITY OF NATCHITOCHEES, STATE OF LOUISIANA; EMPLOYING BOND COUNSEL, AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH**

**BE IT ORDAINED** by the City Council of the City of Natchitoches, State of Louisiana (the "Governing Authority"), acting as the governing authority of the City of Natchitoches, State of Louisiana (the "City"), that:

**SECTION 1. Authorization and Sale of Bond.** Pursuant to La. R.S. 39:1430 and La. R.S. 30:2079 (the "Act"), and other constitutional and statutory authority, the City of Natchitoches, State of Louisiana (the "City"), is hereby authorized to incur debt for the purpose of constructing and acquiring improvements and extensions to the combined waterworks plant and system, electric power and light plant system and sewer system, as a combined utility of the City, and to represent said indebtedness, the City shall issue its Utilities Revenue Bond, Series 2009, in an amount not exceeding One Million One Hundred Eighty-Three Thousand Dollars (\$1,183,000) (the "Bond"). The Bond shall be issued in the form of a single fully registered bond, dated the date of delivery thereof and numbered R-1. The Bond shall be non-interest bearing, and shall mature in a single installment not later than twenty (20) years from date thereof. The principal of the Bond will be subject to forgiveness as provided in Section 3 below, and will be subject to prepayment at any time, in whole or in part at the option of the City, at a price of par plus accrued interest to the date of prepayment.

Pursuant to the Act and La. R.S. 39:1426(B), the City has determined to sell the Bond at a private sale without the necessity of publishing any notice of sale. Accordingly, the Bond is hereby sold to the Louisiana Department of Environmental Quality, Municipal Facilities Revolving Loan Fund (the "Department"). The purchase price of the Bond shall be paid to the City by the Department in installments on an "as-needed" basis, and the date and amount of each installment of the purchase price shall be noted on the Bond and the obligation of the City to repay the principal of the Bond shall only accrue to the extent of the purchase price of the Bond theretofore paid by the Department.

SECTION 2. Form and Execution of Bond. The Bond shall be in substantially the form attached hereto as Exhibit A, and the Mayor and the Clerk of the City are authorized and directed on behalf of the City to execute, seal and deliver the Bond to the Department.

SECTION 3. Security for Bond; Principal Forgiveness. The Bond will be secured by and payable from the revenues of City's combined waterworks plant and system, electric power and light plant system and sewer system (the "System"), subject to the prior payment of the reasonable and necessary costs and expenses of operating and maintaining the System, until the Bond is paid in full in accordance with its terms, all in accordance with the provisions of La. R.S. 30:2079, La. R.S. 39:1430 and other constitutional and statutory authority. The City shall budget and set aside from time to time as necessary sufficient of the net revenues of the System to pay the principal of the Bond when due. The pledge of the revenues of the System shall be secondary and inferior to all other bonds or other obligations that have been or may be issued by the City and made payable from the revenues of the System.

However, it is understood that the terms of the purchase of the Bonds by the Department provide that the City's obligation to repay the principal of the Bond will be forgiven simultaneously with the payment by the Department of each installment of the purchase price of the Bond. Accordingly, it is anticipated that no payments of principal, interest or administrative fees to the Department will ever be due and payable on the Bonds. Notwithstanding any law or contractual provision to the contrary, the forgiveness at any time of any or all of the principal of the Bond theretofore advanced by the Department shall in no way extinguish the Bond or the obligation thereof with respect to the yet-to-be advanced portion of the principal thereof.

SECTION 4. Loan Documents. The (i) Commitment Agreement, (ii) Loan and Pledge Agreement and (iii) Supplemental Loan Agreement, in substantially the forms attached hereto as Exhibits B-1, B-2, and B-3, are hereby approved, and the Mayor and the Clerk of the City are authorized to execute and deliver the aforesaid documents on behalf of the City, with such changes as may be deemed necessary, upon the advice of counsel, in connection with the Bond.

SECTION 5. Authorization of Officers. The Mayor and the Clerk of the City are hereby further authorized and directed, for and on behalf of the City, to accept, receive, execute, seal, attest and deliver all such additional documents, certificates and other instruments as are required in connection with the authorization, issuance, sale and delivery of the Bond and to take such further action as may be appropriate or required by law or advised by bond counsel in connection with the authorization, issuance, sale and delivery of the Bond.

SECTION 6. Employment of Bond Counsel. A real necessity is hereby found for the employment of special bond counsel in connection with the issuance of the Bond, and accordingly the law firm of Foley & Judell, L.L.P., of New Orleans, Louisiana, is hereby employed as Bond Counsel to handle all matters of a legal nature in connection

with the negotiation, sale, issuance and delivery of the Bond. Said special bond counsel shall prepare and submit to the City all proceedings necessary for the due authorization, issuance, sale and delivery of the Bond, shall counsel the City as to the issuance and sale of the Bond, and shall furnish its opinion covering the legality of the Bond. The fee of Bond Counsel in connection with the issuance of the Bonds, which shall be contingent upon delivery of the Bonds, shall not exceed 40% of the maximum fee authorized by the Attorney General's Guidelines for the fees of bond counsel for comprehensive legal and coordinate professional work in the issuance of revenue bonds, based on the principal amount of the Bonds delivered, plus "out-of-pocket" expenses. A certified copy of this resolution shall be forwarded to the Attorney General of the State of Louisiana for his approval of the employment herein provided for.

**SECTION 7. Publication; Peremption.** A copy of this Ordinance shall be published immediately after its adoption in one issue of the official journal of the City, provided that the exhibits to this Ordinance (the form of Bond and the Agreements) need not be published but will instead be available for public inspection at the office of the Clerk during regular business hours on weekdays.

For a period of thirty (30) days from the date of such publication any person in interest shall have the right to contest the legality of this ordinance or of the Bond and the provisions securing the Bond. After the expiration of said thirty (30) days, no one shall have any right of action to contest the validity of the Bond or the provisions of this ordinance, and the Bond shall be conclusively presumed to be legal, and no court shall thereafter have authority to inquire into such matters.

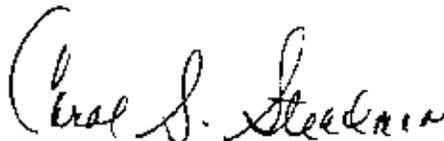
**No Recourse on the Bond.** No recourse shall be had for the payment of the Bonds or for any claim based thereon or on this ordinance against any member of the Governing Authority or officer of the City or any person executing the Bond.

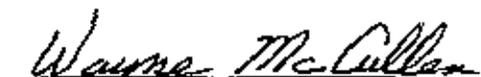
**SECTION 8. Effective Date.** This Ordinance shall take effect immediately.

**SECTION 9.** The foregoing Ordinance having been submitted to a vote, the vote thereon was as follows:

**YEAS:** Nielsen, Payne, Mims, McCain, Morrow  
**NAYS:** None  
**ABSENT:** None

And the resolution was declared adopted on this, the 10<sup>th</sup> day of August, 2009.

  
Clerk

  
Mayor

**EXHIBIT A  
to Bond Ordinance**

**[FORM OF BOND]**

**UNITED STATES OF AMERICA  
STATE OF LOUISIANA  
PARISH OF NATCHITOCHE**

**UTILITIES REVENUE BOND, SERIES 2009  
OF THE  
CITY OF NATCHITOCHE, STATE OF LOUISIANA**

<u>Bond Number</u>	<u>Bond Date</u>	<u>Maturity Date</u>	<u>Principal Amount</u>
R-1	_____, 2009	_____, 20__	\$1,183,000

**THE CITY OF NATCHITOCHE, STATE OF LOUISIANA** (the "City"),  
promises to pay, but solely from the source and as hereinafter provided, to:

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY**  
ATTN: Financial Services Division, Accounts Receivable  
P. O. Box 4311  
Baton Rouge, LA 70821-4311 (the "Department")

or registered assigns, on the dates and in the amounts as shown below, but solely from the revenues hereinafter specified, the principal amount stated above, on the Maturity Date stated above. This bond shall be non-interest bearing.

The purchase price of this Bond shall be paid by the Department to the City in installments. The date and amount of each purchase price installment, together with the amount of principal forgiveness associated therewith and the cumulative outstanding balance of this Bond, shall be noted on Schedule A attached hereto. Notwithstanding any law or contractual provision to the contrary, the forgiveness at any time of any or all of the principal of this Bond theretofore advanced by the Department shall in no way extinguish this Bond or the obligation of this Bond with respect to the yet-to-be advanced portion of the principal hereof.

This Bond represents the entire issue of bonds designated "Utilities Revenue Bonds, Series 2009, of the City of Natchitoches, State of Louisiana" and this Bond is issued by the City pursuant to an ordinance adopted by its governing authority on August 10, 2009 (the "Ordinance"), for the purposes set forth in the Ordinance, under the

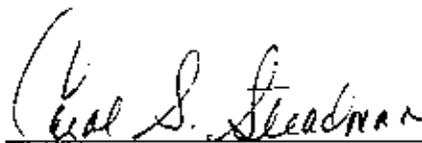
authority conferred by La. R.S. 30:2079 and La. R.S. 39:1430, and other constitutional and statutory authority (collectively, the "Act").

The principal installments of this Bond are subject to prepayment by the City in the manner set forth in the Ordinance.

The payment of this Bond is secured by and payable from the revenues of City's combined waterworks plant and system, electric power and light plant system and sewer system (the "System"), subject to the prior payment of the reasonable and necessary costs and expenses of operating and maintaining the System, until this Bond is paid in full in accordance with its terms, all in accordance with the provisions of the Act and the Ordinance. For a complete statement of the revenues from which and conditions under which this Bond is issued, reference is hereby made to the Ordinance.

It is certified that this Bond is authorized by and is issued in conformity with the requirements of the Constitution and statutes of this State. It is further certified, recited and declared that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this Bond necessary to constitute the same a legal, binding and valid obligations of the City have existed, have happened and have been performed in due time, form and manner as required by law, and that the indebtedness of the City, including this Bond, does not exceed any limitation prescribed by the Constitution and statutes of the State of Louisiana, and that this Bond shall not be invalid for any irregularity or defect in the proceedings for the issuance and sale thereof and shall be incontestable in the hands of *bona fide* purchasers or owners for value thereof.

IN WITNESS WHEREOF, the City has caused this Bond to be executed in its name by the signatures of its Mayor and Clerk, and its official seal to be imprinted or impressed hereon.

  
Clerk

CITY OF NATCHITOCHEs, STATE  
OF LOUISIANA

  
Mayor

(SEAL)

\* \* \* \* \*

**SCHEDULE A  
SCHEDULE OF PRINCIPAL DRAWS AND PRINCIPAL BALANCE**

**\$1,183,000  
UTILITIES REVENUE BOND, SERIES 2009  
OF THE  
CITY OF NATCHITOCHEs, STATE OF LOUISIANA**

Date: \_\_\_\_\_ Draw Number: \_\_\_\_\_  
Principal Draw Paid to City this Date: \$ \_\_\_\_\_  
Amount of Principal Forgiveness this Date: \$ \_\_\_\_\_  
Cumulative Amount of Principal Draws Paid to Date: \$ \_\_\_\_\_  
Cumulative Amount of Principal Forgiveness to Date: \$ \_\_\_\_\_  
Outstanding Balance of Principal \$ \_\_\_\_\_  
Signature of Authorized Officer of Department: \_\_\_\_\_

Date: \_\_\_\_\_ Draw Number: \_\_\_\_\_  
Principal Draw Paid to City this Date: \$ \_\_\_\_\_  
Amount of Principal Forgiveness this Date: \$ \_\_\_\_\_  
Cumulative Amount of Principal Draws Paid to Date: \$ \_\_\_\_\_  
Cumulative Amount of Principal Forgiveness to Date: \$ \_\_\_\_\_  
Outstanding Balance of Principal \$ \_\_\_\_\_  
Signature of Authorized Officer of Department: \_\_\_\_\_

Date: \_\_\_\_\_ Draw Number: \_\_\_\_\_  
Principal Draw Paid to City this Date: \$ \_\_\_\_\_  
Amount of Principal Forgiveness this Date: \$ \_\_\_\_\_  
Cumulative Amount of Principal Draws Paid to Date: \$ \_\_\_\_\_  
Cumulative Amount of Principal Forgiveness to Date: \$ \_\_\_\_\_  
Outstanding Balance of Principal \$ \_\_\_\_\_  
Signature of Authorized Officer of Department: \_\_\_\_\_

Date: \_\_\_\_\_ Draw Number: \_\_\_\_\_

Principal Draw Paid to City this Date: \$ \_\_\_\_\_

Amount of Principal Forgiveness this Date: \$ \_\_\_\_\_

Cumulative Amount of Principal Draws Paid to Date: \$ \_\_\_\_\_

Cumulative Amount of Principal Forgiveness to Date: \$ \_\_\_\_\_

Outstanding Balance of Principal \$ \_\_\_\_\_

Signature of Authorized Officer of Department: \_\_\_\_\_

Date: \_\_\_\_\_ Draw Number: \_\_\_\_\_

Principal Draw Paid to City this Date: \$ \_\_\_\_\_

Amount of Principal Forgiveness this Date: \$ \_\_\_\_\_

Cumulative Amount of Principal Draws Paid to Date: \$ \_\_\_\_\_

Cumulative Amount of Principal Forgiveness to Date: \$ \_\_\_\_\_

Outstanding Balance of Principal \$ \_\_\_\_\_

Signature of Authorized Officer of Department: \_\_\_\_\_

Date: \_\_\_\_\_ Draw Number: \_\_\_\_\_

Principal Draw Paid to City this Date: \$ \_\_\_\_\_

Amount of Principal Forgiveness this Date: \$ \_\_\_\_\_

Cumulative Amount of Principal Draws Paid to Date: \$ \_\_\_\_\_

Cumulative Amount of Principal Forgiveness to Date: \$ \_\_\_\_\_

Outstanding Balance of Principal \$ \_\_\_\_\_

Signature of Authorized Officer of Department: \_\_\_\_\_

Date: \_\_\_\_\_ Draw Number: \_\_\_\_\_

Principal Draw Paid to City this Date: \$ \_\_\_\_\_

Amount of Principal Forgiveness this Date: \$ \_\_\_\_\_

Cumulative Amount of Principal Draws Paid to Date: \$ \_\_\_\_\_

Cumulative Amount of Principal Forgiveness to Date: \$ \_\_\_\_\_

Outstanding Balance of Principal \$ \_\_\_\_\_

Signature of Authorized Officer of Department: \_\_\_\_\_

Date: \_\_\_\_\_ Draw Number: \_\_\_\_\_

Principal Draw Paid to City this Date: \$ \_\_\_\_\_

Amount of Principal Forgiveness this Date: \$ \_\_\_\_\_

Cumulative Amount of Principal Draws Paid to Date: \$ \_\_\_\_\_

Cumulative Amount of Principal Forgiveness to Date: \$ \_\_\_\_\_

Outstanding Balance of Principal \$ \_\_\_\_\_

Signature of Authorized Officer of Department: \_\_\_\_\_

Date: \_\_\_\_\_ Draw Number: \_\_\_\_\_

Principal Draw Paid to City this Date: \$ \_\_\_\_\_

Amount of Principal Forgiveness this Date: \$ \_\_\_\_\_

Cumulative Amount of Principal Draws Paid to Date: \$ \_\_\_\_\_

Cumulative Amount of Principal Forgiveness to Date: \$ \_\_\_\_\_

Outstanding Balance of Principal \$ \_\_\_\_\_

Signature of Authorized Officer of Department: \_\_\_\_\_

Date: \_\_\_\_\_ Draw Number: \_\_\_\_\_

Principal Draw Paid to City this Date: \$ \_\_\_\_\_

Amount of Principal Forgiveness this Date: \$ \_\_\_\_\_

Cumulative Amount of Principal Draws Paid to Date: \$ \_\_\_\_\_

Cumulative Amount of Principal Forgiveness to Date: \$ \_\_\_\_\_

Outstanding Balance of Principal \$ \_\_\_\_\_

Signature of Authorized Officer of Department: \_\_\_\_\_

Date: \_\_\_\_\_ Draw Number: \_\_\_\_\_

Principal Draw Paid to City this Date: \$ \_\_\_\_\_

Amount of Principal Forgiveness this Date: \$ \_\_\_\_\_

Cumulative Amount of Principal Draws Paid to Date: \$ \_\_\_\_\_

Cumulative Amount of Principal Forgiveness to Date: \$ \_\_\_\_\_

Outstanding Balance of Principal \$ \_\_\_\_\_

Signature of Authorized Officer of Department: \_\_\_\_\_

**EXHIBIT B**  
**to Bond Ordinance**

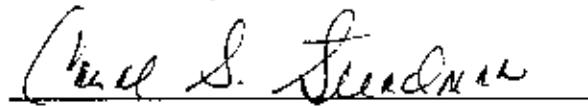
**[LOAN & PLEDGE AGREEMENT**  
**AND SUPPLEMENTAL LOAN AGREEMENT]**

STATE OF LOUISIANA

PARISH OF NATCHITOCHEs

I, the undersigned Clerk of the City Council of the City of Natchitoches, State of Louisiana (the "Governing Authority"), do hereby certify that the foregoing pages constitute a true and correct copy of an ordinance adopted by the Governing Authority on August 10, 2009, authorizing the incurring of debt and issuance of not to exceed \$1,183,000 of Utilities Revenue Bond, Series 2009, of City of Natchitoches, State of Louisiana; employing bond counsel, and providing for other matters in connection therewith.

IN FAITH WHEREOF, witness my official signature and the impress of the official seal of said City at Natchitoches, Louisiana, on this, the 10th day of August, 2009.

  
Clerk

(SEAL)

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**MUNICIPAL FACILITIES  
REVOLVING LOAN FUND**

**COMMITMENT AGREEMENT  
(LOAN WITH 100% PRINCIPAL FORGIVENESS)**

dated as of \_\_\_\_\_ 1, 20\_\_

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by and between

Louisiana Department of Environmental Quality

and the

City of Natchitoches, State of Louisiana

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relating to the issuance of:

not exceeding \$1,183,000

Utilities Revenue Bond, Series 2009

of the

City of Natchitoches, State of Louisiana

Loan No. 22-1160-01

## COMMITMENT AGREEMENT

This **COMMITMENT AGREEMENT**, which shall be dated for convenience as of \_\_\_\_\_ 1, 20\_\_\_\_, by and between:

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY** (the "Department"), an executive department and agency of the State of Louisiana, appearing herein through Vince Sagnibene, Undersecretary, duly authorized hereunto pursuant to an executive order of the Secretary of the Department dated January 17, 2008, and

**THE CITY OF NATCHITOCHEs, STATE OF LOUISIANA** (the "City"), a political subdivision of the State of Louisiana, appearing herein through Wayne McCullen, its Mayor, and Carol Steadman, its Clerk, both duly authorized hereunto pursuant to an ordinance adopted by the governing authority of the City on August 10, 2009;

### WITNESSETH:

**WHEREAS**, the United States of America, pursuant to the Clean Water Act of 1972, as amended by the Water Quality Act of 1987, specifically Subchapter VI, Chapter 26 of Title 33 of the United States Code (the "Federal Act"), is authorized to make capitalization grants to states to be used for the purpose of establishing a water pollution control revolving fund for providing assistance (i) for construction of treatment works (as defined in Section 1292 of the Federal Act) which are publicly owned, (ii) for implementing a management program under Section 1329 of the Federal Act and (iii) for developing and implementing a conservation and management plan under Section 1330 of the Federal Act; and

**WHEREAS**, in order to be eligible to receive such capitalization grants, a state must first establish a water pollution control revolving loan fund to be administered by an instrumentality of the state with such powers and limitations as may be required to operate such fund in accordance with the requirements and objectives of the Federal Act; and

**WHEREAS**, the State of Louisiana (the "State"), pursuant to Subchapter II, Chapter 4 of Title 30 of the Louisiana Revised Statutes of 1950, as amended, specifically La. R.S. 30:2078, et seq.) (the "State Act"), has established a Municipal Facilities Revolving Loan Fund in the custody of the Department (the "State Revolving Fund") to be used for the purpose of providing financial assistance for the improvement of wastewater treatment facilities in the State, as more fully described in Section 2078(B)(2) of the State Act, and has authorized the Department to administer the State Revolving Fund in accordance with applicable federal and state law; and

**WHEREAS**, the City has made application to the Department for a loan from the State Revolving Fund to finance the acquisition, construction and installation of improvements, extensions and additions to the sewerage system of the City, which is a work of public improvement for the City (the "Project"); and

**WHEREAS**, the Department has approved the City's application for a loan from the State Revolving Fund to finance the costs of the Project; and

**WHEREAS**, in accordance with Section 1383(g) of the Federal Act, the Department has established a priority list under Section 1296 of Title 33 of the United States Code, and the Project is on such list; and

**WHEREAS**, indebtedness will be incurred by the City to represent the City's obligation to repay the loan from the State Revolving Fund, which indebtedness is referred to herein as the "Bonds";

**NOW, THEREFORE**, the Department and the City each agree to perform their respective obligations under this Commitment Agreement in accordance with the conditions, covenants and procedures set forth herein and in the exhibits attached hereto and made a part hereof as follows:

## **ARTICLE I**

### **DEFINITIONS AND INTERPRETATION**

**SECTION 1.01. Definitions.** In addition to the terms defined in the preambles hereto, the following terms used in this Commitment Agreement shall have the following meanings, unless the context clearly requires otherwise:

**"Authorizing Ordinance"** means the ordinance adopted by the governing authority of the City authorizing the issuance of the Bonds and authorizing the sale of the Bonds to the Department, as it may be supplemented, modified or amended from time to time in accordance with its terms.

**"Closing Date"** means the date on which the Bonds are delivered to the Department and the first installment of the purchase price therefor is paid by the Department to the City.

**"Loan"** means the loan to be made by the Department from the State Revolving Fund to the City pursuant to this Commitment Agreement and the Loan Agreement, the obligation to repay which Loan will be evidenced by the Bonds.

**"Loan Agreement"** collectively means the Loan & Pledge Agreement and the Supplemental Loan Agreement, both as described in Section 2.07 below, to be entered into by the Department and the City in connection with the sale of the Bonds to the Department, including the exhibits attached thereto, as the same may be supplemented, modified or amended from time to time in accordance with the terms thereof.

**"System"** means the City's revenue-producing sewage collection, treatment and disposal system, as said system now exists, and as it may be hereafter improved, extended or supplemented while any of the Bonds remain outstanding, as more fully described in the Authorizing Ordinance.

**"Project"** means the sewerage system improvements generally described in Exhibit A hereto, which are to be financed through the issuance of the Bonds.

## ARTICLE II

### THE LOAN AND THE BONDS

SECTION 2.01. Commitment to Make Loan. For the purpose of financing the costs of the Project and certain administrative costs relating to the issuance of the Bonds, as described generally in Exhibit A hereto, the Department commits to lend to the City, from legally available moneys in the State Revolving Fund, and under the terms and conditions specified in the Federal Act, the State Act, this Commitment Agreement, the Loan Agreement and the Bonds, the maximum sum of One Million One Hundred Eighty Three Thousand Dollars (\$1,183,000), provided all of the conditions and requirements hereinafter set forth are fulfilled to the satisfaction of the Department. The City's obligation to repay the loan shall be represented by the Bonds, which will be issued by the City pursuant to the Authorizing Ordinance and sold to the Department. In the Authorizing Ordinance, the City will establish a dedicated source of revenue for the repayment of the Bonds.

The Loan shall be subject to and conditioned upon the availability of sums in the State Revolving Fund and the Department will not be required to make the Loan or make disbursements pursuant to the Loan except from sums legally available to the Department in the State Revolving Fund. This Commitment Agreement constitutes a binding commitment of the Department to lend the City moneys from the State Fund and is intended to satisfy the requirement of Section 1282(b)(3) of the Federal Act as well as the requirements of 40 C.F.R §35.3135(c).

SECTION 2.02. Term of Commitment. (a) This Commitment Agreement must be accepted by the City no later than one month after the date of the execution hereof by the Department, otherwise it shall be null and void.

(b) Subject to the terms hereof and upon determination of the Department that the City, the Bonds and the Authorizing Ordinance comply with all applicable laws, regulations and program guidelines, the Department will accept delivery of and make the initial payment of the purchase price of the Bonds during a period ending up to six months after the date of the acceptance hereof by the City. If the Bonds are not delivered to the Department within said six months then this Commitment Agreement shall expire, unless extended by mutual consent of the Department and the City. This Commitment Agreement shall not be construed to preclude the City from obtaining financing for the Project, in whole or in part, from sources other than the State Fund.

SECTION 2.03. Disbursement of Loan: Excess Project Costs. The purchase price of the Bonds will be paid to the City by the Department in installments upon submission of requisitions for qualified costs and expenses, in the manner and at the times to be set forth in the Loan Agreement.

SECTION 2.04. Payment of Additional Costs of the Project. In the event that Loan proceeds are not sufficient to pay the costs of the Project in full, the City shall nonetheless complete the Project and pay that portion of the costs as may be in excess of available Loan proceeds and shall not be entitled to any reimbursement therefor from the Department, except for the proceeds of any additional financing which may (subject to availability) be provided by the Department pursuant to application by the City.

SECTION 2.05. Debt Service Payments. The Bonds shall be non-interest bearing. The principal of the Bonds shall be payable in installments commencing not later than two (2) years after the Closing Date or one (1) year after the completion date of the Project, whichever occurs first, and will be fully amortized not later than twenty (20) years from the date thereof, all in the manner to be set forth in the Loan Agreement and the Authorizing Ordinance.

The Bonds will be subject to prepayment or redemption prior to maturity in accordance with the terms of the Bonds.

SECTION 2.06. Administrative Fee. An annual administrative fee of one-half of one percent (0.50%) of the outstanding principal balance of the Loan, if any, will be payable to the Department in semi-annual installments on each interest payment date, in the manner set forth in the Bonds and the Loan Agreement.

SECTION 2.07. Loan Agreement. The Loan Agreement will contain detailed provisions concerning the terms and conditions of the Loan. Prior to the payment of the first installment of the purchase price of the Bonds, the City will be required to accept the terms and conditions of the Loan Agreement relating to the acquisition, construction, installation, maintenance and operation of the Project, the manner of payment of the purchase price of the Bonds, the use of funds from the State Revolving Fund by the City, the maintenance of financial records by the City, reporting requirements, user charges and compliance with state and federal laws and regulations, and the other provisions contained in the Loan Agreement.

Additionally, the City and the Department shall enter into a Supplemental Loan Agreement with respect to additional terms and conditions required by the American Recovery and Reinvestment Act of 2009 ("ARRA").

SECTION 2.08. Audit Requirements. City acknowledges that by borrowing funds from the State Revolving Fund, it will be obligated to comply with the provisions of the Single Audit Act Amendments of 1996, and OMB Circular No. A-133, all as more further described in the Catalog of Federal Domestic Assistance (CFDC) Publication #66.458.

SECTION 2.09. Legal Fees. The City will pay all fees and expenses due to its own counsel and the fees and expenses of the Department's bond counsel, Adams and Reese, LLP, in connection with the Loan. Fees and expenses of legal counsel to the City and bond counsel to the Department may be treated as a cost of the Project and paid by the City from proceeds of the Loan or otherwise, provided that the fees of the City's counsel in connection with the issuance of the Bonds may not exceed the maximum fee permitted by the Louisiana Attorney General's fees schedule for fees of bond attorneys, and further provided that no fees of the City's attorneys which exceed budgeted eligible costs may be paid from proceeds of the Loan. Fees of the Department's bond counsel shall be as detailed in Exhibit B hereto.

### ARTICLE III

#### LOAN CLOSING REQUIREMENTS

SECTION 3.01. Conditions of the Department's Obligations. In addition to the provisions hereof and the Loan Agreement, the obligation of the Department to make the Loan

and advance moneys under the Loan Agreement will be subject to the following additional conditions:

(a) the Bonds, the Authorizing Ordinance and the resolutions and/or ordinances imposing user charges with respect to the System, and authorizing the Loan Agreement, all will have been duly authorized, executed and delivered or adopted by the City, will be in full force and effect and will not have been amended, modified or supplemented except as may have been agreed to in writing by the Department as of the Closing Date;

(b) On the Closing Date the Department will receive:

(i) the executed opinions of counsel to the City and the Department in such form and containing such conclusions as may be reasonably required by the Department, addressed to the Department and the City;

(ii) a certificate or certificates, satisfactory in form and substance to the Department, from an authorized officer of the City, dated such Closing Date, to the effect that:

1) each of the representations of the City set forth herein and in the Loan Agreement is true, accurate and complete in all material respects as of such Closing date, and each of the agreements of the City set forth in the Loan Agreement to be complied with at or prior to such Closing Date has been complied with as of such date;

2) no litigation is pending, or to the knowledge of the authorized officer's knowledge, threatened, to restrain or enjoin the issuance, execution, sale or delivery of the Bonds or in any way contesting or affecting any authority for or the validity of the Bonds, the Loan Agreement, the Authorizing Ordinance or the creation, existence or powers of the City or the title of the present officers of the City, or any of them, to the respective offices and that none of the proceedings or authority for the issuance of the Bonds have been repealed, revoked or rescinded; and

3) the Bonds have been duly authorized, executed and delivered by the City, constitute valid and legally binding obligations of the City and are entitled to the security of and are secured by the Authorizing Ordinance which, together with the Loan Agreement have been duly authorized, executed and delivered by the City;

(iii) executed originals of the Bonds and the Loan Agreement and a certified copy of the Authorizing Ordinance; executed originals of a Site Certificate, and Engineer's Certificate and a Certification Regarding Cross-Cutting Federal Authorities, in substantially the forms attached hereto as Exhibit C-1, Exhibit C-2 and Exhibit C-3, respectively; and

(iv) such additional certificates, instruments and other documents, dated as of the Closing Date or before, as the Department or its counsel reasonably require to evidence the truth and accuracy as of the Closing Date of the representations of the City herein contained and contained in the Loan Agreement and the due

performance and satisfaction by the City at or prior to such time of all agreements to be performed and all conditions then to be satisfied by the City.

(c) Subsequent to the City's acceptance of this Commitment Agreement and at or prior to the delivery date of the Bonds:

- (i) there will not have occurred any materially adverse change, or any development involving or materially adversely affecting the business, finances, functions or affairs of the City and the ability of the City to repay the Bonds;
- (ii) the City will not have incurred any additional indebtedness payable from the same source of revenues as the Bonds not otherwise described herein, and the City will not have defaulted in the payment of any obligation whatsoever due by it; and
- (iii) the United States will not be or become engaged in any major outbreak of armed hostilities which results in the declaration of a national emergency or there will not have occurred any national calamity so as to affect, in the sole judgment of the Department, the investment quality of the Bonds.

SECTION 3.02. Termination of Commitment. If the City is unable to satisfy the conditions to the obligations of the Department contained in this Commitment Agreement or if the obligations of the Department are terminated for any reason permitted by this Commitment Agreement, this Commitment Agreement will terminate.

#### ARTICLE IV

#### MISCELLANEOUS

SECTION 4.01. Assignment of Rights. This Commitment Agreement may not be assigned by the City.

In the Loan Agreement the City will approve and consent to any assignment, transfer or sale of the Loan Agreement and/or the Bonds by the Department including but not limited to any such assignment or transfer in connection with the issuance by or on behalf of the Department of bonds, notes or other debt obligations. The City will further approve and consent to any assignment or pledge by the Department of payments due from the City pursuant to the Loan Agreement and the Bonds as security or partial security for the payment of principal and interest on such bonds, notes or other debt obligations issued by or on behalf of the Department. The City will agree to cooperate with the Department in accomplishing any such assignment, including execution of any additional certificates or documents as may be reasonably required by the Department.

SECTION 4.02. Representations, Warranties and Agreements to Survive Delivery. All representations, warranties and agreements of the City and the Department contained herein will remain operative and in full force and effect regardless of any investigation made by or on behalf of the City or the Department and will survive the closing of the Loan, delivery of the Loan documents and the delivery of the Bonds to the Department, provided that in the event of a conflict with this Commitment Agreement, the Loan Agreement shall control.

SECTION 4.03. Severability. In the event any provision of this Commitment Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

SECTION 4.04. Amendments, Supplements and Modifications. This Commitment Agreement may be amended, supplemented or modified in writing by the consent of both the Department and the City.

SECTION 4.05. Execution in Counterparts. This Commitment Agreement may be executed in several counterparts, each of which shall be an original and all of which constitute but one and the same instrument.

SECTION 4.06. Applicable Law. This Commitment Agreement shall be governed by and construed in accordance with the laws of the State of Louisiana.

SECTION 4.07. Captions. The captions or headings in this Commitment Agreement are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions or sections of this Commitment Agreement.

IN WITNESS WHEREOF, the Department and the City have caused this Commitment Agreement to be executed and accepted on the respective dates set forth below, but dated for convenience of the parties as of the date first above-written.

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Date of Offer by Louisiana Department of Environmental Quality

\_\_\_\_\_, 20\_\_\_\_

By: \_\_\_\_\_  
Undersecretary,

CITY OF NATCHITOCHE, STATE OF LOUISIANA

Date of Acceptance of Offer by City

August 10, 2009

By: Wayne McCallen  
Mayor

ATTEST:

By: Carol S. Steedman  
Clerk

(SEAL)

**EXHIBIT A**  
**to Commitment Agreement**

**DESCRIPTION OF PROJECT**  
**AND PRELIMINARY PROJECT BUDGET**

**[TO BE FURNISHED BY CITY]**

**EXHIBIT B**  
**to Commitment Agreement**

**FEES OF BOND COUNSEL TO THE DEPARTMENT**

The City will use its own counsel to prepare the Authorizing Ordinance, Bonds, and opinion relating to the Bonds. The Department's Bond Counsel, Adams and Reese, LLP, will be required to review all such documentation and the fee of Department's Bond Counsel will not exceed the "Maximum Fee" shown in the following table:

<u>MORE THAN</u>	<u>BUT NOT MORE THAN</u>	<u>MAXIMUM FEE*</u>
Zero	\$1,000,000	\$6,375
\$1,000,000	\$1,350,000	0.6375% of face amount of the Loan
\$1,350,000	\$2,700,000	\$8,606 plus 0.1875% of all over \$1,350,000
\$2,700,000	\$6,750,000	\$11,138 plus 0.1350% of all over 2,700,000
\$6,750,000	\$13,500,000	\$16,605 plus 0.06% of all over \$6,750,000
\$13,500,000	--	\$20,655 plus 0.0413% of all over \$13,500,000

\*Plus approved, reasonable and necessary travel and out-of-pocket expenses.

**EXHIBIT C-1  
to Commitment Agreement**

**FORM OF SITE CERTIFICATE**

(five executed originals to be furnished at or prior to loan closing)

This is to certify that the **CITY OF NATCHITOCHEs, STATE OF LOUISIANA** (the "City"), has acquired all property (sites, easements, rights-of-way or specific use permits) necessary for construction, operation, and maintenance of sewerage facilities described as

(insert proposed contract number and description):

in accordance with approved plans and specifications and designated as Project Number 22-1160-01 by the State of Louisiana, Municipal Facilities Revolving Fund Program.

Any deeds or documents required to be recorded to protect the title(s) or rights held by the City have been recorded or filed for record wherever necessary. In the event of conflicts with existing underground utilities or to preserve unknown cultural or historic resources, the City has the right to eminent domain and will take condemnation action, if necessary, to acquire any sites, easements, or rights-of-way which may be required to change the location of any of the facilities described above; and upon acquisition of the rights-of-way and recording of documents, will submit another site certificate to that effect.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

---

(Signature of City's Counsel)

---

(Print Name and Title)

**EXHIBIT C-2  
to Commitment Agreement**

**FORM OF ENGINEER'S CERTIFICATE**  
(five executed originals to be furnished at or prior to loan closing)

This is to certify that the undersigned is the engineer for the **CITY OF NATCHITOCHEs, STATE OF LOUISIANA** (the "City"), with respect to:

(insert proposed contract number and description):

in accordance with approved plans and specifications and designated as Project Number 22-1160-01 by the State of Louisiana, Municipal Revolving Fund Program.

The undersigned does hereby further certify that we are familiar with the sewer utility system of said City, including all the appurtenant equipment, accessories and properties, both real and personal (the "System") and have reviewed or participated in the actions taken by the City in obtaining continuous and adequate land and rights-of-way for the construction and operation of the System.

We further certify that we have reviewed the "Site Certificate" attached hereto and that we are not aware of any occurrences that would vary the statements contained therein and that we are not aware of any problem involving sites, easements, rights-of-way, or specific use permits that will materially impede the construction, operation and maintenance of the project described in said site certificate.

We further certify that all easements, franchises, rights-of-way and all other property necessary and essential to the operation of said System to constitute a complete and workable sewer system or necessary for the ownership by the City to constitute a revenue producing facility have been obtained.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Signature of Engineer)

\_\_\_\_\_  
(Print Name and Title)

**EXHIBIT C-3**  
**to Commitment Agreement**

**FORM OF CERTIFICATE REGARDING  
CROSS-CUTTING FEDERAL AUTHORITIES**  
(Five executed originals to be furnished at or prior to loan closing)

The undersigned Mayor of the City of Natchitoches, State of Louisiana (the "City"), do hereby certify that the City will comply with laws, regulations, policies and conditions relating to the Municipal Facilities Revolving Loan Fund ("MFRLF"). I further certify that so long as the Loan is outstanding, to the extent that any of the following are applicable to the City or the Project, the City will comply with following cross-cutting federal authorities that apply to projects and activities receiving assistance from the MFRLF:

ENVIRONMENTAL AUTHORITIES:

1. National Environmental Policy Act (P.L. 91-190), the Clean Water Act (P.L. 92-500, as amended) and the Safe Drinking Water Act (P.L. 93-253, as amended) to protect the quality of the environment, all surface water, ground water and sole source aquifers.
2. The applicable State Environmental Review Process (See 40 CFR Part 35) to ensure consideration of environmental impacts, to resolve compliance through prudent planning and to integrate compliance with other cross-cutting environmental laws.
3. Section 106 of the National Historic Preservation Act of 1966 (PL 89-665, as amended), Executive Order 11593, and the Archaeological and Historic Preservation Act of 1974 (PL 93-291), to minimize harm to historic landmarks and/or cultural resources in the project area.
4. Executive Order No. 11990 (1977), as amended by Executive Order No. 12608 (1997), to minimize the destruction, loss, or degradation of wetlands in any manner when there are feasible alternatives available; and Executive Order No. 11988 (1977), as amended by Executive Order No. 12148 (1979), to promote the prudent management of flood plains; and the Farmland Protection Policy Act (P.L. 97-98) to minimize adverse effects of federal programs on farmland.
5. Coastal Zone Management Act (P.L. 92-583, as amended) and the Coastal Barrier Resources Act (P.L. 97-348, as amended) to protect and enhance the nation's coastal zones and ecologically sensitive coastal barriers.
6. Wild and Scenic Rivers Act (P.L. 90-542, as amended) to preserve the special scenic, cultural, historic, recreational, geological, and fish and wildlife values of the nation's free flowing rivers and adjacent land.
7. Endangered Species Act (P.L. 93-205, as amended) to ensure that the project will not jeopardize, destroy, or adversely modify the continued existence of any endangered or threatened species or adversely affect its critical habitat.

8. Essential Fish Habitat Consultation Process under the Magnuson-Stevens Fishery Conservation and Management Act (P.L. 94-265, as amended) to manage and conserve national fishery resources.

9. The approved State Implementation Plan under the Clean Air Act (P.L. 95-95).

10. Safe Drinking Water Act (P.L. 93-523, as amended) to determine the impact, if any, that the project may have on ground water supplies.

11. Wilderness Act (16 U.S.C. 1131, *et. seq.*) to protect areas in national parks, wildlife areas or forests that have been designated as wilderness areas.

12. Fish & Wildlife Coordination Act (P.L. 89-665, as amended) to protect fish and wildlife when Federal actions result in the control or modification of a natural stream or body of water.

#### SOCIAL POLICY AUTHORITIES:

13. Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination in the provision of service and benefits on the basis of race, color, or national origin.

14. Section 13 of the Federal Water Pollution Act Amendments of 1972 (33 U.S.C. Sec 1251), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec 794), and the Age Discrimination Act of 1975 (42 U.S.C. Sec 6102), which prohibit discrimination in the provision of services and benefits on the basis of race, color, national origin, sex, handicap or age.

15. Executive Order No. 11246 (1965), which applies equal employment opportunity principles to federally assisted construction programs.

16. Executive Orders 11625, 12138, 12432 and Section 129 of the Small Business Administration and Reauthorization and Amendment Act of 1988 (P.L. 100-590) with reference to utilization of minority and/or women business enterprises.

17. Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act (P.L. 102-389) to take six affirmative steps that are intended to promote the participation of disadvantaged business enterprises in their projects and activities, and thereby increase the likelihood that the state will achieve its fair share objective.

18. Executive Order 12898 (1994) with reference to federal actions to address environmental justice in minority populations and low-income populations.

#### ECONOMIC & MISCELLANEOUS AUTHORITIES:

19. Section 306 of the Clean Air Act, Section 508 of the Clean Water Act and Executive Order 11738 (1973), which prohibit the procurement of goods, services, or materials from suppliers who have been convicted of violations of these laws.

20. Executive Order No. 12549 (1986), which prohibits participation in a federal assistance program by anyone who has been debarred or suspended.

21. Demonstration Cities and Metropolitan Development Act of 1966 (P.L. 89-754), which requires intergovernmental review of the proposed project.

22. Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of federally assisted programs (*See* 40 CFR Part 4). These requirements apply to all interests in real property acquired for project purposes regardless of MFRLF participation.

23. Executive Order 13202 (2001), as amended by Executive Order 13208 (2001), with reference to preservation of open competition and government neutrality towards government contractors' labor relations on federal and federally funded construction projects.

OTHER AUTHORITIES:

24. All applicable requirements of all other federal and state laws, executive orders, policies, and regulations governing this program including compliance with the Single Audit Act (OMB Circular A-133).

25. Requirements that the facility to be designed to comply with the "American National Specifications for Making Buildings Accessible to, and Usable by the Physically Handicapped," Number A117-1-196.

The undersigned further agrees that the City will obtain approval by DHH of the final design drawings and specifications before the project is advertised for bidding; will complete the project in accordance with this application, the approved System Improvement Plan, and approved plans and specifications; and, will submit project changes to DHH for prior approval.

I further certify that I am a duly authorized representative of the City, and that I have read and understand these requirements and assurances.

CITY OF NATCHITOCHEs, STATE OF  
LOUISIANA

August 10, 2009

By: Wayne McCullen  
Mayor

---

**MUNICIPAL FACILITIES  
REVOLVING LOAN FUND**

**LOAN AND PLEDGE AGREEMENT  
(LOAN WITH 100% PRINCIPAL FORGIVENESS)**

dated as of \_\_\_\_\_ 1, 20\_\_

---

by and between

Louisiana Department of Environmental Quality

and the

City of Natchitoches, State of Louisiana

---

relating to the issuance of:

not exceeding \$1,183,000

Utilities Revenue Bond, Series 2009

of the

City of Natchitoches, State of Louisiana

Loan No. 22-1160-01

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## LOAN AND PLEDGE AGREEMENT

This **LOAN AND PLEDGE AGREEMENT**, which shall be dated for convenience as of \_\_\_\_\_ 1, 20\_\_\_\_, by and between:

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY** (the "Department"), an executive department and agency of the State of Louisiana, appearing herein through Vince Sagnibenc, Undersecretary, duly authorized hereunto pursuant to an executive order of the Secretary of the Department dated January 17, 2008, and

**THE CITY OF NATCHITOCHE, STATE OF LOUISIANA** (the "City"), a political subdivision of the State of Louisiana, appearing herein through Wayne McCullen, its Mayor, and Carol Steadman, its Clerk, both duly authorized hereunto pursuant to an ordinance adopted by the governing authority of the City on August 10, 2009;

### WITNESSETH:

**WHEREAS**, the United States of America, pursuant to the Clean Water Act of 1972, as amended by the Water Quality Act of 1987, specifically Subchapter VI, Chapter 26 of Title 33 of the United States Code (the "Federal Act"), is authorized to make capitalization grants to states to be used for the purpose of establishing a water pollution control revolving fund for providing assistance (i) for construction of treatment works (as defined in Section 1292 of the Federal Act) which are publicly owned, (ii) for implementing a management program under Section 1329 of the Federal Act and (iii) for developing and implementing a conservation and management plan under Section 1330 of the Federal Act; and

**WHEREAS**, in order to be eligible to receive such capitalization grants, a state must first establish a water pollution control revolving loan fund to be administered by an instrumentality of the state with such powers and limitations as may be required to operate such fund in accordance with the requirements and objectives of the Federal Act; and

**WHEREAS**, the State of Louisiana (the "State"), pursuant to Subchapter II, Chapter 4 of Title 30 of the Louisiana Revised Statutes of 1950, as amended, specifically La. R.S. 30:2078, et seq.) (the "State Act"), has established a Municipal Facilities Revolving Loan Fund in the custody of the Department (the "State Revolving Fund") to be used for the purpose of providing financial assistance for the improvement of wastewater treatment facilities in the State, as more fully described in Section 2078(B)(2) of the State Act, and has authorized the Department to administer the State Revolving Fund in accordance with applicable federal and state law; and

**WHEREAS**, in accordance with §300j(b) of the Federal Act, the Department has prepared an intended use plan with respect to funds available in the State Revolving Fund, which includes the Project; and

**WHEREAS**, the City has made application to the Department for a loan from the State Revolving Fund to finance the acquisition, construction and installation of improvements,

extensions and additions to the sewerage system of the City, which is a work of public improvement for the City (the "Project"); and

**WHEREAS**, the Department has approved the City's application for a loan from the State Revolving Fund to finance the costs of the Project; and

**WHEREAS**, in accordance with Section 1383(g) of the Federal Act, the Department has established a priority list under Section 1296 of Title 33 of the United States Code, and the Project is on such list; and

**WHEREAS**, the City, by ordinance of its governing authority adopted on August 10, 2009, has authorized the incurring of debt and the issuance of its Utilities Revenue Bond, Series 2009 in an amount not to exceed \$1,183,000 (the "Bonds"), for the aforesaid purposes, which Bonds are proposed to be purchased by the Department using available moneys in the State Revolving Fund; and

**WHEREAS**, the Bonds will be secured by and payable from the revenues of City's sewerage system, subject to the prior payment of the reasonable and necessary costs and expenses of operating and maintaining the System, until the Bonds are paid in full in accordance with their terms, all in accordance with the provisions of La. R.S. 30:2079, La. R.S. 39:1430 and other constitutional and statutory authority, however, it is understood that the terms of the purchase of the Bonds by the Department provide that the Bonds are non-interest bearing and the City's obligation to repay the principal of the Bond will be forgiven simultaneously with the payment by the Department of each installment of the purchase price of the Bonds, accordingly, it is anticipated that no payments of principal, interest or administrative fees of the Department will ever be due and payable on the Bonds;

**NOW, THEREFORE**, the Department and the City each agree to perform their respective obligations under this Loan Agreement in accordance with the conditions, covenants and procedures set forth herein and in the exhibits attached hereto and made a part hereof as follows:

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## ARTICLE I

### DEFINITIONS AND INTERPRETATION

SECTION 1.01. Definitions. The following terms used in this Loan Agreement shall have the following meanings, unless the context clearly requires otherwise:

**"Authorized Officer"** means the officer or officers of the City who have executed this Loan Agreement, or their successors in office, or such other person or persons authorized pursuant to Authorizing Ordinance to act as an authorized officer of the City to perform any act or execute any document relating to the Loan, the Bonds or this Loan Agreement.

**"Authorizing Ordinance"** means the ordinance adopted by the governing authority of the City, authorizing the issuance of the Bonds and authorizing the sale of the Bonds to the Department, as it may be supplemented, modified or amended from time to time in accordance with its terms.

**"Bonds"** shall mean the City's Utilities Revenue Bond, Series 2009, in an amount not to exceed \$1,183,000, which are being issued by the City for the purpose of paying Costs of the Project, sold to the Department and purchased by the Department from moneys in the State Revolving Fund.

**"City"** means the City of Natchitoches, State of Louisiana, a political subdivision of the State of Louisiana, and its successors or assigns.

**"Code"** means the Internal Revenue Code of 1986, as the same may be amended and supplemented from time to time, including any regulations promulgated thereunder or any administrative or judicial interpretations thereof.

**"Completion Date"** means the earlier of (i) the date of the final disbursement of the purchase price of the Bonds to the City, or (ii) date the operation of the Project is initiated or capable of being initiated, as certified by an Authorized Officer in accordance with Section 6.05.

**"Construction Fund"** means the fund or account to be established in accordance with the City's customary accounting practices, into which each installment of the purchase price of the Bonds is to be deposited, and from which Costs of the Project and costs of issuance of the Bonds will be disbursed by the City.

**"Costs of the Project"** means, with reference to the Project, all capital costs incurred or to be incurred for the Project, including but not limited to (a) engineering, financing, legal and other fees and expenses related to the issuance of the Bonds, (b) acquisition and construction costs of the Project, (c) interest on the Bonds during construction, if specifically approved by the Department, and (d) a reasonable allowance for contingencies, all to the extent permitted by the Federal Act, the State Act and any rules or regulations promulgated thereunder.

**"Default"** means an event or condition, the occurrence of which would constitute with the lapse of time or the giving of notice or both an Event of Default with respect to the Bonds.

**"Delivery Date"** means the date on which the Bonds are delivered to the Department and the first installment of the purchase price therefor is paid by the Department to the City.

**"Department"** means the Louisiana Department of Environmental Quality, an executive department and agency of the State, and any successor to the duties and functions thereof.

**"Engineer"** means a consulting engineer or firm of consulting engineers registered and licensed by the Louisiana Professional Engineering and Land Surveying Board, or its successor in function, as a professional engineer and selected by the City for the purpose of providing engineering services with respect to the Project. If the City employs a qualified in-house engineer, then such personnel may be the Engineer hereunder with the approval of the Department.

**"EPA"** means the United States Environmental Protection Agency or any successor entity which may succeed to the administration of the programs established by the Federal Act.

**"Event of Default"** means any occurrence or event specified in Section 10.01.

**"Federal Act"** means the Clean Water Act of 1972, as amended by the Water Quality Act of 1987, specifically Subchapter VI, Chapter 26 of Title 33 of the United States Code, and other statutory and regulatory authority amendatory or supplemental thereto.

**"Fiscal Year"** means the City's one-year accounting period as determined by the Governing Authority.

**"Governing Authority"** means the City Council of the City or its successor in function.

**"Loan"** means the loan made by the Department from the State Revolving Fund to the City pursuant to this Loan Agreement, the obligation to repay which Loan is evidenced by the Bonds.

**"Loan Agreement"** means this Loan and Pledge Agreement, including the exhibits attached hereto, as it may be supplemented, modified or amended from time to time in accordance with the terms hereof.

**"Loan Amount"** means the maximum amount that the Department has agreed to loan the City, being the authorized principal amount of the Bonds.

**"Outstanding"** when used with respect to the Bonds, as of the date of determination, means all Bonds theretofore issued and delivered under the Authorizing Ordinance except:

- (a) Bonds that have been cancelled or delivered to the Registrar for cancellation;
- (b) Bonds that have been defeased in accordance with Section 4.02;
- (c) Bonds in exchange for or *in lieu* of which other Bonds have been registered and delivered pursuant to the Authorizing Ordinance; or

(d) Bonds alleged to have been mutilated, destroyed, lost or stolen which have been paid as provided in the Authorizing Ordinance or by law.

**"Plans and Specifications"** means the drawings, elevations, shop drawings and accompanying specifications for work prepared by the Engineer for the City relating to the Project or any portion thereof.

**"Principal Payment Date"** means each principal payment date on the Bonds, as set forth in the Authorizing Ordinance.

**"Project"** means the sewerage system improvements generally described in Exhibit A hereto, which are being financed through the issuance of the Bonds.

**"Regulations"** means the regulations of the Department adopted pursuant to and in furtherance of the Clean Water Act of 1972, as amended by the Water Quality Act of 1987, and the State Act, as such may be amended from time to time, including, without limitation Title 33, Part IX, Chapter 21 of the Louisiana Administrative Code (L.A.C. 33:IX.2101, *et seq.*).

**"Scheduled Completion Date"** means the date presently estimated by the City and the Engineer to be the Completion Date, which is \_\_\_\_\_.

**"State"** means the State of Louisiana.

**"State Act"** means the La. R.S. 30:2078, *et seq.* and other constitutional and statutory authority supplemental thereto.

**"State Revolving Fund"** means the Municipal Facilities Revolving Loan Fund administered, operated and maintained by the Department pursuant to the Federal Act and the State Act.

**"System"** means the City's revenue-producing sewerage system, as said system now exists, and as it may be hereafter improved, extended or supplemented while any of the Bonds remain outstanding, as more fully described in the Authorizing Ordinance.

**"User Fees"** means charges or fees levied on users of the System for the cost of operation, maintenance and replacement of the System, for the repayment of debt incurred with respect to the System and for such other purposes as may be determined by the Governing Authority from time to time.

#### SECTION 1.02. Rules of Interpretation

(a) Unless the context clearly indicates to the contrary, the following rules shall apply to the interpretation and construction of this Loan Agreement:

(1) words importing the singular number shall include the plural number and *vice versa*,

(2) all references to particular articles or sections herein are references to articles or sections of this Loan Agreement;

(3) the captions and headings herein are solely for convenience of reference and shall not constitute a part of this Loan Agreement, nor shall they affect its meaning, construction or effect;

(4) the terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms as used in this Loan Agreement refer to the Loan Agreement in its entirety and not the particular article or section of this Loan Agreement in which they appear; and

(5) the term "hereafter" means after the date of execution of this Loan Agreement and the term "heretofore" means before the date of the execution of this Loan Agreement.

(b) In the event that any provisions of the Authorizing Ordinance conflict with any provision of this Loan Agreement, then the provisions of this Loan Agreement shall control.

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## ARTICLE II

### REPRESENTATIONS OF THE DEPARTMENT

SECTION 2.01. Representations of the Department. The Department represents and covenants as follows:

(a) The Department is authorized by the State Act to administer, operate and maintain the State Revolving Fund in full compliance with the Federal Act, as amended, and the requirements of the EPA promulgated thereunder.

(b) The Department has complied with the provisions of the Federal Act and the State Act and all regulations thereunder with respect to the State Revolving Fund and has full power and authority to execute and deliver this Loan Agreement and to consummate the transactions contemplated hereby and perform its obligations hereunder.

(c) The Department, by executive order of its Secretary, being the chief executive officer thereof, has authorized the execution, delivery and due performance of this Loan Agreement and the taking of any and all actions as may be required on the part of the Department to carry out, give effect to and consummate the transactions contemplated hereby and all approvals necessary in connection with the foregoing.

(d) There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or threatened against or affecting the Department or to the best knowledge of the Department is there any basis therefor, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated hereby or which in any way would adversely affect the validity of this Loan Agreement or any agreement or instrument to which the Department is a party and which is used or contemplated for use in consummation of the transactions contemplated hereby.

(e) The execution and delivery by the Department of this Loan Agreement and the consummation of the transactions contemplated hereby will not violate any indenture, mortgage, deed of trust, note, loan agreement, or other contract or instrument to which the Department is a party or by which it is bound, and to the best of the Department's knowledge any judgment, decree, order, statute, rule or regulation applicable to the Department and all consents, approvals, authorizations and orders of governmental or regulatory authorities which are required for the consummation of the transactions contemplated hereby have been obtained.

(f) The Department has determined that the Project, subject to final review of the Plans and Specifications, is eligible for financial assistance from the State Revolving Fund, and the Project is listed on the State's priority list as required by Section 1383(g) of the Federal Act.

SECTION 2.02. Representations of the City. The City represents and covenants as follows:

(a) The City is a political subdivision of the State and has full legal right and authority and all necessary licenses and permits required as of the date hereof to own, operate and maintain the System, to carry on its activities relating thereto, to execute and deliver this

Loan Agreement, to execute, issue and deliver the Bonds, to pledge the revenues necessary to secure the payment of the Bonds, to undertake and complete the Project and to carry out and consummate all transactions contemplated by this Loan Agreement.

(b) The proceedings of the Governing Authority approving this Loan Agreement and the Bonds and authorizing their execution, issuance and delivery by the City and authorizing the City to undertake and complete the Project, including, without limitation the Authorizing Ordinance, have been duly and lawfully adopted in accordance with the laws of the State, including the Open Meetings Law (R.S. 42:4.1, *et seq.*).

(c) The Authorizing Ordinance was duly adopted by the Governing Authority and was published in the official journal of the City no less than 30 days prior to the delivery date of the Bonds and since the said publication no actions or proceedings have been filed or threatened contesting the legality of the Authorizing Ordinance, the Bonds or any provision for payment of the Bonds.

(d) This Loan Agreement and the Bonds have been duly authorized and have been or will be duly executed and delivered by the Authorized Officer, and assuming that the Department has all the requisite power and authority to authorize, execute and deliver and has duly authorized, executed and delivered this Loan Agreement, this Loan Agreement and the Bonds will constitute the legal, valid and binding obligations of the City, enforceable in accordance with their respective terms.

(e) To the best of the City's knowledge, there is no fact that the City has not disclosed to the Department in writing on the City's application for the Loan or otherwise that materially adversely affects the properties, activities, prospects or condition (financial or otherwise) of the City or the System or the ability of the City to make all Loan repayments and otherwise to observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Bonds.

(f) To the best of the City's knowledge, the authorization, execution and delivery of this Loan Agreement and the Bonds by the City, the observance and performance by the City of its duties, covenants, obligations and agreements thereunder and under the Authorizing Ordinance and the consummation of the transactions provided for in this Loan Agreement, the Authorizing Ordinance and the Bonds, the compliance by the City with the provisions of this Loan Agreement, the Authorizing Ordinance and the Bonds and the undertaking and completion of the Project will not result in any breach of any of the terms, conditions or provisions of or constitute a default under or result in the creation or imposition of any lien, charge or other encumbrance upon any property or assets of the City pursuant to any ordinance or resolution, trust agreement, indenture, mortgage, deed of trust, loan agreement or other instrument (other than the lien and charge of the Authorizing Ordinance and the Bonds) and any ordinance, resolution or indenture which authorized outstanding debt obligations to which the City is a party or by which the City, the System or any of its property or assets may be bound, nor will such action result in any violation of the provisions of any laws, ordinances, resolutions, governmental rules, regulations or court orders to which the City, the System or its properties or operations are subject.

(g) There are no proceedings pending, or to the knowledge of the City threatened, against or affecting the City in any court or before any governmental authority or arbitration board or tribunal that have not been disclosed in writing to the Department in the City's application for the Loan or otherwise that, if adversely determined, would materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the City or its System or the ability of the City to make all Loan repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Bonds.

(h) To the best of the City's knowledge, no event has occurred and no condition exists that, upon authorization, execution and delivery of this Loan Agreement and the Bonds or receipt of the amount of the Loan, or upon the happening of any such event and the giving of notice and/or the passage of time, would constitute an Event of Default hereunder or under the Authorizing Ordinance. The City is not in violation of and has not received notice of any claimed violation of any term of any agreement or other instrument to which it is a party or by which it or the System or its properties may be bound, which violation would materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the City or its System or the ability of the City to make all Loan repayments or otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement, the Authorizing Ordinance and the Bonds.

(i) The City has obtained all permits and approvals required to date by any governmental body or officer (and reasonably expects to receive all permits required in the future by any governmental agency) for the making, observance and performance by the City of its duties, covenants, obligations and agreements under this Loan Agreement and the Bonds or for the undertaking or completion of the Project and the financing or refinancing thereof and the City has complied with all applicable provisions of law requiring any notification, declaration, filing or registration with any governmental body or officer in connection with the making, observance and performance by the City of its duties, covenants, obligations and agreements under this Loan Agreement and the Bonds or with the undertaking or completion of the Project and the financing or refinancing thereof. No consent, approval or authorization of, or filing, registration or qualification with any governmental body or officer that has not been obtained is required on the part of the City as a condition to the authorization, execution and delivery of this Loan Agreement and the Bonds, the undertaking or completion of the Project or the consummation of any transaction herein contemplated.

(j) The City is in compliance with all laws, resolutions, ordinances, governmental rules and regulations to which it is subject, the failure to comply with which would materially adversely affect the ability of the City to conduct its activities or undertake or complete the Project, or the condition (financial or otherwise) of the City or its System; and the City has obtained or will obtain all licenses, permits, franchises or other governmental authorizations presently necessary for the ownership of its property or for the conduct of its activities which, if not obtained, would materially adversely affect the ability of the City to conduct its activities or undertake or complete the Project or the condition (financial or otherwise) of the City or its System.

(k) The City has not previously pledged the revenues being used to repay the Bonds to the payment of any indebtedness of the City or any other entity.

SECTION 2.03. Particular Covenants of the City. The City further covenants and agrees for the benefit of the Department as follows:

(a) The City agrees that the estimated Costs of the Project, as listed in Exhibit B hereto and made a part hereof, is a reasonable and accurate estimation as of the date hereof, and upon direction of the Department will supply the same with a certificate from its Engineer stating that such estimated cost is a reasonable and accurate estimation. With the approval of the State Revolving Fund Engineering Manager, the City and the Department may mutually agree to change the allocation and categories shown in said Exhibit B without the necessity of amending the Loan Agreement.

(b) The City will promptly notify the Department of any material adverse change in the activities, prospects or condition (financial or otherwise) of the City relating to the System or to the ability of the City to make all or any Loan repayments, provide for the payment of Administrative Fees and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Bonds.

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## ARTICLE III

### LOAN TO ##District; ISSUANCE OF BONDS

SECTION 3.01. Terms of the Loan. The Department hereby agrees to reserve in the State Revolving Fund a sum equal to the Loan Amount from the sums available to the Department or to be received by the Department to be deposited in the State Revolving Fund. The Department further agrees that it will effect the Loan by purchasing the Bonds from the City and paying the purchase price thereof in installments pursuant to this Loan Agreement and the Authorizing Ordinance in accordance with Sections 7.01 and 7.02.

The City will apply the proceeds of the Loan to finance the Costs of the Project, and where applicable, to reimburse the City or any lender for such portion of the Costs of the Project that was paid or incurred by the City or for payment of the cost of which sums were borrowed on an interim basis in anticipation of reimbursement by the Department, and to pay the costs of issuance of the Bonds.

Notwithstanding the foregoing, (i) the Department shall be under no obligation to continue to make disbursements after an Event of Default has occurred and is continuing under the Authorizing Ordinance or this Loan Agreement; and (ii) the Department shall not be obligated to make or continue to make disbursements if funds are not legally available to the Department in the State Revolving Fund to make the Loan or make disbursements pursuant to the Loan. The City shall use the proceeds of the Loan strictly in accordance with the terms of the Authorizing Ordinance and this Loan Agreement.

SECTION 3.02. Issuance of Bonds. As evidence of its obligation to repay the Loan, the City contemporaneously herewith has issued and delivered the Bonds to the Department, which Bonds are payable in the manner and from the sources set forth in the Authorizing Ordinance.

SECTION 3.03. Delivery of Documents. On the Delivery Date the City will cause to be delivered to the Department each of the following items:

- (a) the Bonds duly executed;
- (b) opinions of counsel to the City substantially in form satisfactory to counsel to the Department;
- (c) an executed counterpart of this Loan Agreement;
- (d) certified copies of the Authorizing Ordinance and any other resolutions or ordinances of the Governing Authority authorizing the execution and delivery of this Loan Agreement and the Bonds; and
- (e) such other certificates, documents, opinions and information as the Department may reasonably require.

SECTION 3.04. Debt Service Payments. The Bonds shall be payable as set forth in the Authorizing Ordinance and as follows:

- (a) Since the Bonds are non-interest bearing, there are no interest payment dates; and
- (b) Principal shall be payable in a single installment on the date set forth in the Bonds.

However, it is understood that the terms of the purchase of the Bonds by the Department provide that the City's obligation to repay the principal of the Bonds will be forgiven simultaneously with the payment by the Department of each installment of the purchase price of the Bonds. Accordingly, it is anticipated that no payments of principal, interest or administrative fees of the Department will ever be due and payable on the Bonds. Notwithstanding any law or contractual provision to the contrary, the forgiveness at any time of any of the principal of the Bond, or even all of the principal theretofore advanced by the Department, shall in no way extinguish the Bond or the obligation thereof with respect to the yet-to-be advanced portion of the principal thereof.

Promptly after the payment of the final installment of the purchase price of the Bonds, the completion certificate required by Section 6.05 shall be attached to and made a part of the Bonds.

SECTION 3.05. Disclaimer of Warranties and Indemnification. The City acknowledges and agrees that:

(a) the Department and the State make no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the System, the Project or any portions thereof or the Plans and Specifications or any other warranty or representation with respect thereto;

(b) in no event shall the Department or the State be liable or responsible for any direct, incidental, indirect, special or consequential damages in connection with or arising out of this Loan Agreement or the Project or the existence, furnishings, functioning or use of the System or the Project or any item or products or services provided for in this Loan Agreement, including the Plans and Specifications; and

(c) to the extent authorized by law, the City hereby indemnifies, saves and holds harmless the Department and the State against any and all claims, damages, liability and court awards, including costs, expenses and attorney fees, incurred as a result of any act or omission by the City, or its employees, agents or subcontractors pursuant to the terms of this Loan Agreement, including but not limited to failure of the Department to note any defect in materials or workmanship or of physical conditions or failure to comply with any plans, specifications, drawings, ordinances, statutes or other requirements of a governmental authority, or to call to the attention of any person whatsoever, or take any action, or to demand that any action be taken, with regard to any such defect or failure or lack of compliance.

SECTION 3.06. Lost, Destroyed or Improperly Cancelled Bonds. In case any of the Bonds shall become lost, destroyed or improperly cancelled, such Bonds may be replaced in the manner set forth in R.S. 39:971, *et seq.*, or other applicable laws.

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## ARTICLE IV

### PAYMENT OF BONDS; DEFEASANCE

SECTION 4.01. Pledge of Revenues. The Bonds, and to the extent allowed by applicable law all other sums due pursuant to this Loan Agreement, shall be secured and payable from the revenues of the System, subject to the prior payment of the reasonable and necessary costs and expenses of operating and maintaining the System, until the Bonds are paid in full in accordance with their terms, all in accordance with the provisions of La. R.S. 30:2079, La. R.S. 39:1430 and other constitutional and statutory authority. The net revenues of the System shall be and remain so pledged for the security and payment of the Bonds until the Bonds shall be fully paid and discharged. The City agrees that it shall not further encumber the pledged revenues, to the payment of any indebtedness having an equal or superior lien to that enjoyed by the Bonds, other than through the issuance of junior lien obligations.

SECTION 4.02. Defeasance. Notwithstanding any defeasance procedures set forth in the Authorizing Ordinance, so long as the Bonds are owned by the Department or pledged as security for any indebtedness issued by or on behalf of the Department, the Bonds may be defeased and may be deemed to be paid and shall no longer be considered outstanding under the Authorizing Ordinance and under this Loan Agreement, only in the event that the City has complied with the requirements of Chapter 14 of Title 39 of the Louisiana Revised Statutes of 1950, as amended (La. R-S. 39:1441 *et seq.*), or any successor provision thereto, to defease all remaining scheduled payments of debt service on the Bonds.

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## ARTICLE V

### CONSTRUCTION FUND

SECTION 5.01. Construction Fund. For the purpose of receiving purchase price payments of the Bonds and paying Costs of the Project and costs of issuance, the City has established and agrees to maintain the Construction Fund to be administered in the manner set forth herein.

If at any time the Department deems, in its sole discretion, that the depository for any of the Construction Fund to be unsatisfactory for whatever reason, then the City agrees that it will transfer any or all of the Construction Fund to such depository as may be designated by the Department.

SECTION 5.02. Investments. All moneys in any of the Construction Fund shall be invested in investment securities permitted by State law. All income derived from such investments shall be added to the amounts in the respective funds, and such investments shall be liquidated to the extent at any time necessary to apply the proceeds thereof to the purpose for which the Construction Fund has been created.

SECTION 5.03. Notification of Deliciencies. The City shall notify the Department, and as required by R.S. 39:1410.62 the State Bond Commission, in writing, whenever (i) transfers to any fund required to be established by the Authorizing Ordinance or any ordinance or resolution authorizing the issuance of indebtedness of the City have not been made timely or (ii) debt service payments due on the Bonds or any other outstanding indebtedness of the City have not been made timely.

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## ARTICLE VI

### CONSTRUCTION AND COMPLETION OF THE PROJECT

SECTION 6.01. Plans and Specifications: Construction Contracts. The Plans and Specifications must be submitted to the Department for approval in writing, prior to formal request for bids on a construction contract or contracts. The Plans and Specifications shall comply with all laws, regulations and ordinances including, in particular, all zoning, fire, safety and environmental laws, regulations and ordinances. Contracts for the acquisition, construction and installation of the Project shall be entered into in compliance with Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950, as amended.

The City will exercise its best efforts to initiate construction of the Project within six (6) months after the Delivery Date and in accordance with prudent sewerage utility practice to complete the Project and to so accomplish such completion on or before the Scheduled Completion Date, and to provide from its own financial resources all moneys required to complete the Project in excess of the Loan Amount available hereunder.

SECTION 6.02. Engineer. Prior to signing a construction contract or contracts, the City shall name the Engineer. If so required by the Department, the Engineer shall issue prior to each disbursement request a progress report detailing construction status to date and stating whether construction is within the Project budget. Requisitions for funds during construction, in the form attached hereto as Exhibit C, will be executed by the City and certified by the Engineer.

SECTION 6.03. Compliance with Law. If requested by the Department, the City will furnish the Department with evidence that the property and equipment constituting the System, and the proposed and actual use thereof, comply with all laws, ordinances, rules and regulations of all governmental authorities having jurisdiction over the same, including the Regulations, and that there is no action or proceeding before any court, quasi-judicial body of administrative agency at the time of any disbursement by the Department relating to the System.

The City will obtain all necessary approvals from any and all governmental agencies requisite to the completion of the Project in compliance with all federal, State and local laws, ordinances and regulations applicable thereto. Upon completion of the Project the City shall obtain all required permits and authorizations from appropriate authorities as required for operation and use of the Project as contemplated by this Loan Agreement.

In the event that archeological artifacts or historical resources are unearthed during construction excavation of the Project, the City shall stop or cause to be stopped construction activities and will notify the Department and the EPA of such fact.

The City will immediately halt construction of the Project and notify the Department and EPA if any endangered species are encountered during construction so that mitigating measures can be taken in accordance with the Endangered Species Act of 1973, as amended.

The City will take and institute such proceedings as will be necessary to cause and require all contractors and materials suppliers to complete their contracts diligently and in

accordance with the terms of the contracts, including without limitation, correcting any defective work.

SECTION 6.04. Payment of Additional Costs of the Project. In the event that Loan proceeds are not sufficient to pay the Costs of the Project in full, the City shall nonetheless complete the Project and pay that portion of the Costs of the Project as may be in excess of available Loan proceeds and shall not be entitled to any reimbursement therefor from the Department, except for the proceeds of any additional financing which may (subject to availability) be provided by the Department pursuant to application by the City.

SECTION 6.05. Completion Certificate. The Project will be considered complete when the provisions of Section 7.08 have been met for all construction contracts included in the Project, or upon the disbursement of the final installment of the purchase price of the Bonds, whichever occurs first, and such date will be the Completion Date for purposes of this Loan Agreement. On or as soon as practicable after the Completion Date, the City shall submit the Certificate of Substantial Completion required by Section 7.08(a) and shall certify to the Department when it has initiated or is capable of initiating operation of the Project. The City shall also ratify and confirm in writing the final principal amount of the Loan and the final principal amortization schedule, if any, for the Loan.

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## ARTICLE VII

### DISBURSEMENTS

SECTION 7.01. Disbursement of Loan Proceeds. Prior to any disbursement of Loan Proceeds, the City will prepare a budget and construction disbursement schedule which shall be updated from time to time as required by the progress of construction. Installments of the Loan, representing purchase price installments of the Bonds, shall be paid by the Department to the City under the terms of this Loan Agreement, upon receipt of a properly completed requisition in the form attached hereto as Exhibit C, subject to and conditioned upon the availability of sums on deposit in the State Revolving Fund. The City will deposit such proceeds in the Construction Fund and will utilize and expend such proceeds in a timely and expeditious manner and, in particular, will:

- (a) pay promptly all approved Costs of the Project;
- (b) proceed expeditiously with and complete the Project in accordance with Plans and Specifications, with construction reasonably expected to begin within six (6) months after the Delivery Date;
- (c) provide and maintain competent and adequate supervision and inspection of the Project;
- (d) return promptly upon written request any and all unused funds, including all costs or amounts found not eligible or disallowed by the Department; and
- (e) complete the Project within two years of the Delivery Date unless the Department gives its written approval to an extended construction period.

SECTION 7.02. Disbursement Procedure. Purchase price installments of the Bonds for the payment of Costs of the Project shall be made by the Department to the City from time to time as the construction of the Project progresses, subject to the satisfaction of the following conditions:

- (a) in connection with each disbursement, the City shall submit a requisition in the form attached hereto as Exhibit C, which requisition shall include:
  - (i) an updated copy of the disbursement schedule (if applicable);
  - (ii) a certification of the Engineer, which shall be in form and substance satisfactory to the Department which shall state that the expenditures for which payment is requested are in accordance with the Plans and Specifications and the disbursement schedule;
  - (iii) if required by the Department, evidence satisfactory to the Department that the insurance required by Section 8.08 of this Loan Agreement remains in full force and effect;

- (iv) such other instruments, documents, certificates, endorsements, invoices and opinions as the Department may reasonably require to substantiate the Costs of the Project for which payment is requested; and
  - (v) if the requisition is the final requisition, the Completion Certificate required by Section 6.05;
  - (b) disbursements shall be made not more frequently than twice per calendar month;
  - (c) each disbursement shall be subject to the review and approval of the Department;
- and

(d) the amount of each disbursement shall be computed so that five (5%) percent, or such larger percentage as may be requested by the City, of such disbursement constituting eligible costs and one hundred (100%) percent of non-eligible costs will be deducted from the total amount payable as retainage or as non-eligible costs with respect to each contract for construction of the Project or any portion thereof. The total amount of retainage withheld from the disbursements during the construction of the Project with respect to each contract shall be disbursed pursuant to the provisions of Section 7.08.

**SECTION 7.03. Modified Disbursement Procedure.** The Department reserves the right to modify the procedures set forth in Section 7.02 in order to make disbursements directly to any contractor or to subcontractors and suppliers when it is necessary to prevent a default under any construction contract or to insure that all subcontractors, suppliers and laborers who have performed services or provided materials to the Project are paid.

**SECTION 7.04. Reimbursement of Certain Costs.** The City will promptly reimburse the Department for any portion of the Loan which is determined by the Department to have been expended for a cost which is not eligible for funding from the State Revolving Fund, which reimbursement will be made not more than 180 days after the discovery thereof by either the City or the Department. Such reimbursement shall be promptly paid to the Department upon written request of the Department, and shall be applied in inverse order of maturity against the outstanding principal amount of the Bonds.

**SECTION 7.05. Inspections; Possession of Project.** Upon the occurrence of an Event of Default, the City does hereby agree and authorize the Department, EPA, the Engineer, or any agent, officer, employee or representative of the Department or EPA to enter upon the Project to make inspections of the materials, plans, shop drawings, workmanship and construction of the Project or to enter into possession of the Project and perform any work necessary or desirable to complete the Project and to take all other action in connection therewith, in order that the Department may:

- (a) verify that each disbursement is appropriate and in conformity with the requirements of this Article;
- (b) verify that all work covered by a proposed disbursement is in accordance with the Plans and Specifications;

(c) determine whether there has been or may be any default of the obligations of the City under this Loan Agreement or the Authorizing Ordinance; and

(d) take any necessary or appropriate action to insure that the Project will be completed in a timely manner and in accordance with the Plans and Specifications and the disbursement schedule.

None of the aforesaid actions by the Department or by any agent, officer, employee or representative of the Department shall be or may be construed in such a manner as to impose any duty or obligation whatsoever on the Department, the Engineer, or any agent, officer, employee or representative of the Department to protect or represent any owner, City, contractor, surety, or any other person whatsoever and shall not be considered or construed as having made any warranty whatsoever, whether express or implied, as to the adequacy, quality of fitness or purpose of any physical conditions, materials, workmanship, plans, specifications, drawings or other requirements pertaining to the Project, or whether any such physical conditions, materials or workmanship comply with any plans, specification, drawings, ordinances, statutes, or other governmental requirements pertaining to the Project.

**SECTION 7.06. Conditions Precedent.** It is specifically understood and agreed that the obligation of the Department to fund any disbursements for payments to contractors or suppliers (other than engineering expenses and costs of issuance of the Bonds) shall be subject to the receipt by the Department of the following items with respect to each construction contract that is entered into with respect to the Project:

(a) a true and correct copy of all applicable construction contracts pertaining to the Project (including all amendments, addenda, supplements, modifications and related documents), which contracts shall be for a guaranteed maximum contract price satisfactory to the Department or on such terms and conditions as shall be satisfactory to the Department;

(b) three (3) complete sets of the Plans and Specifications relating to any construction contract pertaining to the Project, which Plans and Specifications shall be in final form and shall have been approved in scope and substance by the City and the Department;

(c) a copy of a "Notice to Proceed" statement from the City to the contractor, establishing the commencement date of the contract;

(d) a certificate from the Engineer stating that the proposed use of the Project as contemplated by the Plans and Specifications is consistent with all applicable zoning ordinances and such use of the Project for the purposes contemplated thereby is permitted under all applicable zoning ordinances;

(e) a copy of any building permits, if required, issued by the applicable agency or agencies with respect to the proposed construction of the Project;

(f) a copy of any policy or policies of builder's all-risk insurance issued by an insurance company or companies acceptable to the Department, insuring the Project for its full replacement costs (or on a progressively full insured basis) with extended coverage, and said

policy shall insure against such loss or damages as the Department may require, or the City shall provide proof of self-insurance;

(g) a copy of a policy of comprehensive general liability insurance, which policy shall be satisfactory to the Department in form, substance, limits and coverage, or the City shall provide proof of self-insurance;

(h) a copy of a policy of worker's compensation insurance issued in accordance with applicable law, or the City shall provide proof of self-insurance;

(i) a copy of a payment and a performance bond from a surety company acceptable to the Department; and

(j) a final site certificate.

**SECTION 7.07. Conditions to all Disbursements.** In addition to the requirements of Section 7.06 with respect to the initial disbursement for each construction contract that is entered into with respect to the Project, the obligation of the Department to fund the initial and all subsequent disbursements of the purchase price of the Bonds is subject to the satisfaction of the following further conditions:

(a) that as of the date of such disbursement, there has occurred no Default and no condition which, with the giving of notice or lapse of time or both, would become an Event of Default under the Bonds, any Parity Obligations or this Loan Agreement;

(b) that each of the representations, covenants and agreements of the City contained herein shall be true and correct on and as of the date of the respective disbursements;

(c) that the City shall be in full compliance with all obligations and covenants contained herein, the applicable Regulations and all other applicable State, Department and federal regulations; and

(d) that as of the date of the request for disbursement there have been no changes made to the Plans and Specifications nor any change orders executed which have not been approved by the Department.

**SECTION 7.08. Conditions to Disbursement of Retainage.** The disbursement by the Department of the retainage withheld pursuant to Section 7.02 shall be subject to the satisfaction of the following conditions:

(a) receipt by the Department of a certificate signed by the City and the Engineer stating that to their best knowledge the Project or applicable portion of the Project has been completed in accordance with the Plans and Specifications therefor;

(b) receipt by the Department of a copy of a lien and privilege certificate showing that no liens have been recorded encumbering the Project;

(c) if requested by the Department, receipt by the Department of a certificate of cancellation evidencing that the construction contract or contracts have been canceled and erased from the mortgage records, if applicable;

(d) receipt by the Department of a duly completed request for disbursement executed by the City covering the retainage;

(e) a certificate of the City certifying that all Costs of the Project, and all change orders and amendments to all construction contracts, have been previously submitted by the City to the Department, which certificate contains an acknowledgment by the City that no further disbursements will be due to the City from the Department;

(f) completion of a final inspection of the Project by the Department;

(g) receipt by the Department of a duly completed certificate of labor standards by the City, if applicable; and

(h) if not previously furnished by City, (i) a certified copy of a duly enacted sewer use ordinance, (ii) a sewer user charge ordinance and (iii) if applicable, an industrial waste ordinance, all as defined by the Regulations, each complying with applicable provisions of the Regulations and all other applicable State and federal regulations, which have been approved as to form and substance by the Department.

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## ARTICLE VIII

### OPERATION OF THE SYSTEM

SECTION 8.01. Operation of the System. The City will maintain the System in good repair and operating condition and will cooperate with the Department in the observance and performance of the respective duties, covenants, obligations and agreements of the City and the Department under this Loan Agreement.

The City will insure that the Project operates and meets minimum technical and administrative requirements in accordance with the State Sanitary Code, and the City will meet all requirements imposed by the EPA and the Department as a condition of receiving the Loan from the State Revolving Fund under the Federal Act, the State Act and any applicable Regulations.

The City will, in accordance with prudent sewage utility practice,

(a) at all times operate the properties of its System and any business in connection therewith in an efficient manner;

(b) maintain the System in good repair working order and operating condition; and

(c) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to the System so that at all times the business carried on in connection therewith shall be properly and advantageously conducted, provided, however, that this covenant shall not be construed as requiring the City to expend any funds which are derived from sources other than the operation of its System or other receipts of such System which are not pledged hereunder, and provided further that nothing herein shall be construed as preventing the City from doing so.

SECTION 8.02. Sewer Charges and Connections. Acting in the exercise of its police powers, the City shall take all action necessary to require every owner, tenant or occupant of each lot or parcel of land within the geographical boundaries of the City which abuts upon a street or other public way containing a sewer line and upon which lots or parcels of a building shall have been constructed for residential, commercial or industrial use, to connect said building with the System and to cease to use any other method for the disposal of sewage, sewage waste or other polluting matter which can be handled by the System. All such connections shall be made in accordance with the rules and regulations to be adopted from time to time by the City, which rules and regulations may provide for an inspection charge to assure the proper making of such connection.

The City will not furnish or supply or cause to be furnished or supplied any use, capacity or service of the System free of charge to any person, firm, corporation (public or private), public agency or instrumentality.

In addition to all other rights and remedies available to be used for the enforcement of sewerage charges and for the compelling of the making of sewerage connections as aforesaid, the

City covenants that it shall exercise and enforce promptly and efficiently all rights given it under the laws of the State for the enforcement and collection of such charges.

SECTION 8.03. User Fees. The City will enact, maintain and enforce an ordinance or resolution imposing User Fees and will enact, maintain and enforce a sewerage use ordinance or resolution or similar proceeding that satisfies the requirements of all the Regulations. So long as the Bonds are outstanding, the City through its Governing Authority obligates itself to fix, establish, maintain, levy and collect such rates, fees, rents or other charges for services and facilities of the System and all parts thereof and to revise the same from time to time whenever necessary to always provide User Fees in each Fiscal Year sufficient to meet all requirements of the Authorizing Ordinance and at least to:

(a) pay the reasonable and necessary expenses of operating and maintaining the System in such Fiscal Year and to satisfy the requirements of Louisiana Administrative Code 33:IX.2111(L), or any successor provision, that the User Fees generate sufficient revenues to cover the costs of operation, maintenance and replacement;

(b) pay debt service on the Bonds to the extent that such payments are not provided for from other sources of pledged revenues; and

(c) meet any coverage ratio requirement set forth in the Authorizing Ordinance.

SECTION 8.04. Annual Review of User Fees. At least annually, but in no event later than six (6) months after the close of the previous Fiscal Year, the City shall review the adequacy of its User Fees to satisfy the requirements of Section 8.03 for the next succeeding Fiscal Year. If required by the Department, the City shall prepare a report of such review stating the City's opinion regarding the adequacy or inadequacy of the existing User Fees to satisfy the requirements of Section 8.03 and what action the City will take to satisfy such requirements, if any, and shall furnish a copy of such report to the Department upon its completion.

If such review indicates that the User Fees are, or are likely to be, insufficient to meet the requirements of Section 8.03 for the next succeeding Fiscal Year, or if it otherwise appears at any time during such Fiscal Year that User Fees are or are likely to be insufficient to meet such requirements, the City shall promptly take such steps as are necessary to cure or avoid the deficiency.

SECTION 8.05. Financial Records; Annual Audit. The City will establish and maintain adequate financial records as required by the laws of the State governing financial record-keeping by political subdivisions and in accordance with generally accepted accounting principles ("GAAP") and will make these and the following records and reports available to the Department and EPA or their authorized representatives upon request.

The City will cause an audit of its financial statements to be made by an independent firm of certified public accountants in accordance with the requirements of Chapter 8 of Title 24 of the Louisiana Revised Statutes of 1950, as amended, and in accordance with the requirements of Circular A-133 of the U.S. Office of Management and Budget, and Section 66.458 of the Catalog of Federal Domestic Assistance (CFDA #66.458 - Capitalization Grants for State Revolving Funds) if applicable.

(a) Upon completion, but in no event later than six (6) months after the close of the applicable Fiscal Year, the City shall file a copy of such audited financial statements with the Department.

A reasonable portion of the expenses incurred in the preparation of the audit report required by this Section may be regarded and paid as a maintenance and operation expense of the System. The City further agrees that the Department shall have the right to ask for and discuss with the accountant making the review and the contents of the review and such additional information as it may reasonably require. The City further agrees to furnish to the Department, upon request therefor, a monthly statement itemized to show the income and expenses of the operation of the System and the number of users for the preceding month.

**SECTION 8.06. Consulting Engineer.** The City will submit over the life of the Loan sufficient information as is reasonably requested by the Department to demonstrate that the City has legal, institutional, managerial and financial capability to ensure the construction, operation and maintenance of the Project and the System and the repayment of the Loan.

To this end, the City may retain an Engineer, but shall be required to do so only in accordance with provisions of Section 10.04, for the purpose of providing the City with continuous engineering counsel in the operation of the System. The Engineer shall be retained under contract at such reasonable compensation as may be fixed by the City, and the payment of such compensation shall be considered to be one of the costs of maintaining and operating the System. Any Engineer appointed under the provisions of Section 10.04 may be replaced at any time by another Engineer appointed or retained by the City upon written notice to the Department.

Upon the occurrence of an Event of Default, or if requested in writing by the Department, the City shall prepare, or shall have the Engineer prepare within one hundred eighty (180) days after the close of each Fiscal Year a comprehensive operating report which shall contain therein or be accompanied by a copy of the audit required by Section 8.05, and in addition thereto shall report upon the operation of the System during the preceding Fiscal Year, the maintenance of the properties, the efficiency of the management of the property, the proper and adequate keeping of the books of account and record, the adherence to budget and budgetary control provisions, all matters bearing upon the sufficient and profitable operation of the System, and shall include whatever criticism of any phase of the operation of the System the City or the Engineer, as the case may be, may deem proper and such recommendation as to changes in the operation and the making of repairs, renewals, replacements, extensions, betterments and improvements as the City or Engineer may deem proper. Copies of such report shall be furnished to the Department upon written request. It shall be the duty of the Engineer, if retained in accordance with this Section, to determine the economic soundness or feasibility of any extensions, betterments, improvements, expenditures or purchases of equipment and materials or supplies, which will involve the expenditure of more than Twenty-Five Thousand Dollars (\$25,000), whether in one or more than one order, and whether from funds on deposit in the Contingencies Fund.

**SECTION 8.07. Prohibition Against Liens.** Except as provided in Section 11.02, the City will maintain title to or the possession of the System and equipment acquired and properties improved by the Project, including any necessary servitudes and rights-of-way acquired in

connection with the Project. Title to any immovable equipment and any real property purchased by the City in connection with the Project will remain free and clear of all liens and encumbrances. Furthermore, all movable property necessary for the operation of the System will remain free of all liens except liens necessary to secure the purchase of said movable equipment.

SECTION 8.08. Insurance. So long as the Bonds are Outstanding the City will maintain or cause to be maintained in force insurance policies with responsible insurers or self insurance programs providing against risk of direct physical loss, damage or destruction of the System at least to the extent that similar insurance is usually carried by utilities constructing, operating and maintaining sewerage system facilities of the nature of the System, including liability coverage, all to the extent available at reasonable cost. In case of loss, any insurance money received by the City shall be used for the purpose of promptly repairing or replacing the property damaged or destroyed or shall be deposited in the Contingencies Fund to supplement any other amounts required to be paid into said Fund.

SECTION 8.09. Fidelity Bonds. So long as the Bonds are Outstanding the City, in operating the System, shall require all of its officers and employees who may be in a position of authority or in possession of money derived from the operation of the System to obtain or be covered by blanket or faithful performance bond, or independent fidelity bonds, written by a responsible indemnity company in amounts adequate to protect the City from loss.

SECTION 8.10. Competitive Franchises. So long as the Bonds are Outstanding the City obligates itself not to grant a franchise to any utility for operation within the boundaries of the City which would render services or facilities in competition with the System, and also obligates itself to oppose the granting of any such franchise by any other public body having jurisdiction over such matters. Further, the City shall maintain its corporate identity and existence so long as any of the Bonds remain outstanding.

SECTION 8.11. Equal Opportunity. The City will comply with all federal and State laws pertaining to equal employment opportunities insuring that all engineers and contractors for this Project not discriminate against any person on the basis of race, color, sex, religion, age, national origin or handicap.

SECTION 8.12. Access to Books. The Department and the EPA or their authorized representative shall have access to the Project and to the City's administrative offices, books, records, reports, design documents, contract documents and similar documents at any reasonable time. The City hereby covenants and agrees that the City shall cause its engineers and contractors to cooperate during Project inspections, including making readily available books, records, current working copies of plans and specifications and supplementary materials and further consents and agrees that the City will allow inspections and examinations by the Department, and EPA during construction and periodically over the term of the Loan.

## ARTICLE IX

### PARITY OBLIGATIONS

SECTION 9.01. Issuance of Additional Parity Obligations. Additional parity obligations may be issued with the prior written consent of the Department, to complete the acquisition and construction of the Project, to make additional improvements to the System or to refund or refinance any portion of the Loan. Such consent shall not be necessary if all of the Bonds will be refunded with such additional Parity Obligations.

SECTION 9.02. Junior and Subordinate Lien Obligations. Junior and subordinate lien Obligations may be issued by the City at any time without restriction upon written notice thereof to the Department.

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## ARTICLE X

### DEFAULTS AND REMEDIES

SECTION 10.01. Events of Default. Each of the following events is defined as and declared to be and to constitute an "Event of Default" hereunder:

(a) Failure by the City to pay, or cause to be paid, any debt service payments on the Bonds or any other amount payable on the Loan when due;

(b) Failure by the City to observe and perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in subsections (a) or (b) above, which failure shall continue for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied is given to the City by the Department, unless the Department shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the failure stated in such notice is correctable but cannot be corrected within the applicable period, the Department may not unreasonably withhold its consent to an extension of such time up to sixty (60) days from the delivery of the written notice referred to above if corrective action is instituted by the City within the applicable period and diligently pursued until the Event of Default is corrected;

(c) If any representation made by or on behalf of the City contained in this Loan Agreement, or in any instrument furnished in compliance with or with reference to this Loan Agreement or the Loan or in connection with the Bonds, is determined to be false or misleading in any material respect; or

(d) A petition is filed by or against the City under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Loan Agreement or hereafter enacted, unless in the case of any such petition filed against the City such petition shall be dismissed within thirty (30) days after such filing and such dismissal shall be final and not subject to appeal, or the City shall become insolvent or bankrupt or make an assignment for the benefit of its creditors; or a custodian (including, without limitation, a receiver, liquidator or trustee of the City or any of its property) shall be appointed by court order to take possession of the City or its property or assets if such order remains in effect or such possession continues for more than thirty (30) days.

SECTION 10.02. Notice of Default. The City shall give the Department prompt notice, by telephone, fax or electronic mail, of the occurrence of any Event of Default and of the occurrence of any other event or condition that constitutes an Event of Default. Any telephone notice pursuant to this Section shall be confirmed in writing by the end of the next business day.

SECTION 10.03. Remedies on Default. Until an event of default shall have occurred, the City shall retain full possession and control of the System with the full right to manage, operate and use the same and every part thereof with rights appertaining thereto, and to collect and receive, and subject to the provisions of this Loan Agreement, to take, use, enjoy and distribute the earnings, income and profits accruing or derived from the System.

However, when an Event of Default shall have occurred and be continuing the Department shall have the right to take any action permitted or required pursuant to this Loan Agreement or the Authorizing Ordinance and to take whatever other action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce the performance and observance of any duty, covenant, obligation or agreement of the City hereunder, including, without limitation, obtaining the appointment of a receiver of the System in an appropriate judicial proceeding in a court of competent jurisdiction.

**SECTION 10.04. Appointment of Engineer; Required Reports.** In the event that the City should fail to derive sufficient User Fees from the operation of the System to make the monthly payments into the Construction Fund, as required in the Authorizing Ordinance, or in the event of an Event of Default hereunder, then it will retain an Engineer in the manner provided in the Authorizing Ordinance.

**SECTION 10.05. Appointment of Receiver.** In the event that the Department obtains the appointment of a receiver after the occurrence of an Event of Default, such receiver shall, in the performance of the powers conferred upon him, be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby and a successor receiver appointed in the discretion of the court.

Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided shall hold and operate the System in the name of the City and for the joint protection and benefit of the City, any owners of Parity Obligations and the Department. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System and the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the City, any owners of Parity Obligations and the Department and the curing and making good of any Default. In such case, title to and the ownership of the System shall remain in the City, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage, or otherwise dispose of any assets of the System except with the consent of the City and in such manner as the court shall direct.

**SECTION 10.06. Attorney's Fees and Other Expenses.** The City shall, on demand, pay to the Department the reasonable fees and expenses of attorneys and other reasonable expenses (including without limitation the reasonably allocated costs of in-house counsel and legal staff) incurred by the Department in the collection of delinquent Loan repayments or any other sum due hereunder or in the enforcement of performance or observation of any other duties, covenants, obligations or agreements of the City hereunder, under the Authorizing Ordinance or under any other agreements relating to the Bonds.

SECTION 10.07. Application of Moneys. Any moneys collected by the Department pursuant to Section 10.03, after payment of the costs of operation and maintenance of the System, shall be applied

- (a) first to pay any interest due and payable on the Loan;
- (b) second, to pay principal due and payable on the Loan;
- (c) third, to pay any fees and expenses owed by the City pursuant to Section 10.06;
- (d) fourth, to pay any other amounts due and payable under this Loan Agreement; and
- (e) fifth, to pay any other amounts payable hereunder, including Administrative Fees, as such amounts become due and payable.

SECTION 10.08. No Remedy Exclusive; Waiver; Notice. No remedy herein conferred upon or reserved to the Department is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other given under this Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. To entitle the Department to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article.

SECTION 10.09. Retention of Department's Right. Notwithstanding any assignment or transfer of this Loan Agreement pursuant to the Section 11.01 or otherwise, and anything else to the contrary contained herein, the Department shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the City at law or in equity, as the Department may, in its discretion, deem necessary to enforce the obligations of the City to the Department.

SECTION 10.10. Default by Department. In the event of any default by the Department under any duty, covenant, agreement or obligation of this Loan Agreement, the City's remedy for such default shall be limited to injunction, special action, action for specific performance or any other available legal or equitable remedy designed to enforce the performance or observance of any duty, covenant, obligation or agreement of the Department hereunder as may be necessary or appropriate.

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**ARTICLE XI**  
**ASSIGNMENT**

SECTION 11.01. Assignment, Transfer or Sale by the Department. The City hereby approves and consents to any assignment, transfer or sale of this Loan Agreement and/or the Bonds by the Department including but not limited to any such assignment or transfer in connection with the issuance by or on behalf of the Department of bonds, notes or other debt obligations. The City hereby further approves and consents to any assignment or pledge by the Department of payments due from the City pursuant to this Loan Agreement and the Bonds as security or partial security for the payment of such bonds, notes or other debt obligations issued by or on behalf of the Department. The City agrees to cooperate with the Department in accomplishing any such assignment, including execution of any additional certificates or documents as may be reasonably required by the Department.

SECTION 11.02. Assignment, Transfer or Sale by City. Neither this Loan Agreement nor the Project may be assigned, transferred or sold by the City for any reason, unless the following conditions shall be satisfied:

- (a) the Department shall have approved said assignment, transfer or sale in writing;
- (b) the assignee or transferee shall be a governmental unit within the meaning of Section 141(c) of the Code, unless the Department shall have received the opinion described in (d) below notwithstanding the fact that the assignee or transferee is not a governmental unit, and the assignee shall have expressly assumed in writing the full and faithful observance and performance of the City's duties, covenants, agreements and obligations under this Loan Agreement;
- (c) immediately after such assignment, transfer or sale, the assignee or transferee shall not be in default in the performance or observance of any duties, covenants, obligations or agreements of the City hereunder or under the Authorizing Ordinance;
- (d) [Reserved];
- (e) if applicable, the Department shall have received an opinion of its bond counsel to the effect that such assignment, transfer or sale will not adversely affect the exclusion of interest on any bonds, notes, or other debt obligations issued by or on behalf of the Department from gross income for federal income tax purposes under the Code or affect the ability of the Department to repay or cause to be repaid any such bonds, notes or other debt obligations; and
- (f) the Department shall receive an opinion of its counsel to the effect that such assignment, transfer or sale will not violate the provisions of any agreement entered into by the Department with, or condition of any grant received by the Department from, the United States of America relating to any capitalization grant received by the Department or the State under the Federal Act or the Regulations.

No assignment, transfer or sale shall relieve the City from primary liability for any of its obligations under this Loan Agreement and in the event of such assignment, the City shall

continue to remain primarily liable for the performance and observance of its obligations to be performed and observed under this Loan Agreement.

Notwithstanding the foregoing, the City may dispose of property which in its reasonable judgment is worn out unserviceable, unsuitable, or unnecessary in the operation of the System, when other property of equal value is substituted therefor, or the proceeds derived from the disposal of such property are deposited in a Contingencies Fund or used to prepay or redeem the Bonds.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

## ARTICLE XII

### MISCELLANEOUS

SECTION 12.01. Payment of Department Expenses. The City agrees to pay at the Delivery Date all fees and expenses incurred by the Department in connection with the Loan which shall include the payment of all attorneys' fees and expenses of Adams and Reese, LLP, bond counsel to the Department, approved by the Department in connection with the Loan.

SECTION 12.02. Consents and Approvals. Whenever the written consent or approval of the Department shall be required under the provisions of this Loan Agreement, such consent or approval may only be given by the Secretary or the Assistant to Secretary, Office of Management and Finance unless otherwise provided by law or by rules or regulations of the Department or executive order of the Secretary of the Department.

SECTION 12.03. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered or sent by registered or certified mail, postage prepaid, or by overnight courier service to the City and to the Department at the addresses shown in the appearances to this Loan Agreement. Either of the foregoing parties may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent by notice in writing given to the other party, and may accept notices by facsimile or electronic mail.

SECTION 12.04. Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the Department and the City and their respective successors and assigns.

SECTION 12.05. Severability. In the event any provision of this Loan Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

SECTION 12.06. Amendments, Supplements and Modifications. This Loan agreement may be amended, supplemented or modified in writing with the consent of both the Department and the City.

SECTION 12.07. Execution in Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which constitute but one and the same instrument.

SECTION 12.08. Applicable Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State of Louisiana.

SECTION 12.09. Captions. The captions or headings in this Loan Agreement are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions or sections of this Loan Agreement.

SECTION 12.10. Further Assurances. The City agrees, at the request of the Department to authorize, execute, acknowledge and deliver such further resolutions, ordinances, conveyances, transfers, assurances, financing statements and other instruments as may be

necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights and agreements granted or intended to be granted by the City under this Loan Agreement.

**[SIGNATURES ON NEXT PAGE]**

IN WITNESS WHEREOF, the Department and the City have caused this Loan Agreement to be executed, sealed and delivered on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, but dated for convenience of the parties as of the date first above-written.

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

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

CITY OF NATCHITOCHEs, STATE OF LOUISIANA

By: Wayne Mc Cullen  
Mayor

ATTEST:

By: Chris S. Steedman  
Clerk

(SEAL)

**EXHIBIT A**  
**to Loan and Pledge Agreement**

**DESCRIPTION OF PROJECT**

**EXHIBIT B**  
**to Loan and Pledge Agreement**

**ESTIMATED COSTS OF THE PROJECT**

**EXHIBIT C**  
**to Loan and Pledge Agreement**

**FORM OF REQUISITION**

---

**MUNICIPAL FACILITIES  
REVOLVING LOAN FUND**

**SUPPLEMENTAL LOAN AGREEMENT  
(LOAN WITH 100% PRINCIPAL FORGIVENESS)**

dated as of \_\_\_\_\_ 1, 20\_\_

---

by and between

Louisiana Department of Environmental Quality

and the

City of Natchitoches, State of Louisiana

---

relating to the issuance of:

not exceeding \$1,183,000  
Utilities Revenue Bond, Series 2009  
of the  
City of Natchitoches, State of Louisiana

Loan No. 22-1160-01

## **SUPPLEMENTAL LOAN AGREEMENT**

This **SUPPLEMENTAL LOAN AGREEMENT**, which shall be dated for convenience as of \_\_\_\_\_ 1, 20\_\_, is by and between:

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY** (the "Department"), an executive department and agency of the State of Louisiana, appearing herein through Vince Sagnibene, Undersecretary, duly authorized hereunto pursuant to an executive order of the Secretary of the Department dated January 17, 2008, and

**THE CITY OF NATCHITOCHEs, STATE OF LOUISIANA** (the "City"), a political subdivision of the State of Louisiana, appearing herein through Wayne McCullen, its Mayor, and Carol Steadman, its Clerk, both duly authorized hereunto pursuant to an ordinance adopted by the governing authority of the City on August 10, 2009;

**WHO DECLARED** that they desire to avail themselves of the provisions of Article VI, Section 20 and Article VII, Section 14(C) of the Louisiana Constitution of 1974 by entering into this Supplemental Loan Agreement (the "Agreement") for the objects and purposes and under the conditions, covenants and stipulations hereinafter set forth.

### **THE DEPARTMENT AND THE CITY HEREBY MAKE THE FOLLOWING FINDINGS AND DECLARATIONS:**

**WHEREAS**, the United States of America, pursuant to the Clean Water Act of 1972, as amended by the Water Quality Act of 1987, specifically Subchapter VI, Chapter 26 of Title 33 of the United States Code (the "Federal Act"), is authorized to make capitalization grants to states to be used for the purpose of establishing a water pollution control revolving fund for providing assistance (i) for construction of treatment works (as defined in Section 1292 of the Federal Act) which are publicly owned, (ii) for implementing a management program under Section 1329 of the Federal Act and (iii) for developing and implementing a conservation and management plan under Section 1330 of the Federal Act; and

**WHEREAS**, in order to be eligible to receive such capitalization grants, a state must first establish a water pollution control revolving loan fund to be administered by an instrumentality of the state with such powers and limitations as may be required to operate such fund in accordance with the requirements and objectives of the Federal Act; and

**WHEREAS**, the State of Louisiana (the "State"), pursuant to Subchapter II, Chapter 4 of Title 30 of the Louisiana Revised Statutes of 1950, as amended, specifically La. R.S. 30:2078, et seq.) (the "State Act"), has established a Municipal Facilities Revolving Loan Fund in the custody of the Department (the "State Revolving Fund") to be used for the purpose of providing financial assistance for the improvement of wastewater treatment facilities in the State, as more fully described in Section 2078(B)(2) of the State Act, and has authorized the Department to administer the State Revolving Fund in accordance with applicable federal and state law; and

**WHEREAS**, La. R.S. 30:2078(B)(2) authorizes the State Revolving Fund to use funds therein, among other purposes, to provide financial assistance, to the extent authorized under state law, to make loans and to provide assistance to a municipality or other local political subdivision with respect to the non-federal share of the costs of a publicly-owned wastewater treatment project, and to provide for any other expenditure consistent with the federal grant program and state law; and

**WHEREAS**, Division A, Title VII of the American Recovery and Reinvestment Act of 2009, P.L. 111-5 ("ARRA") provides that \$4,000,000,000 shall be made available for capitalization grants to clean water revolving funds in the various states under Title VI of the Federal Water Pollution Control Act, of which \$43,081,400 has been made available to the State Revolving Fund, subject to the additional requirement of ARRA that not less than 50 percent of such amount be used to provide additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans or grants or any combination of these; and

**WHEREAS**, the City has made application to the Department for a loan from the State Revolving Fund to finance a portion of the costs of constructing and acquiring improvements, extensions and replacements to its wastewater treatment system, as are generally described in Exhibit A hereto (the "Project") and in accordance with Section 1383(g) of the Federal Act, the Department has established a priority list under Section 1296 of Title 33 of the United States Code, and the Project is on such list; and

**WHEREAS**, the Department has approved the City's application for a loan from the State Revolving Fund to finance the costs of the Project and by this agreement wishes to provide for compliance with applicable provisions of ARRA, including the additional subsidization required by ARRA, with respect to the use of ARRA funds that will be used to make the loan to the City; and

**WHEREAS**, indebtedness will be incurred by or on behalf of the City to represent the City's obligation to repay the loan from the State Revolving Fund, which indebtedness is referred to herein as the "Bonds"; and

**WHEREAS**, under the Cooperative Economic Development Law (La. R.S. 33:9020, *et seq.*) the State of Louisiana (the "State"), its local governmental subdivisions (with or without the creation of an economic development corporation), political corporations, public benefit corporations, the United States or its agencies, or any public or private association, corporation, or individual may enter into cooperative financing arrangements between and among the State, its local governmental subdivisions, political corporations, public benefit corporations, the United States or its agencies, or any public or private association, corporation, or individual, to finance economic development projects, as defined in the Cooperative Economic Development Law; and

**WHEREAS**, such cooperative financing arrangements may include loans, loan guarantees, grants, or any form of financial subsidy or incentive; and

**WHEREAS**, the Department and the City intend by this Agreement to provide specifically for the additional subsidization requirements of ARRA described above;

**WHEREAS**, Article VII, Section 14(C) of the Constitution of the State of Louisiana of 1974 provides that for a public purpose "the State of Louisiana and its political subdivisions or political corporations may engage in cooperative endeavors with each other, with the United States or its agencies, or with any public or private association, corporation, or individual"; and

**WHEREAS**, the Department and the City desire to cooperate in the financing of the Project; and

**WHEREAS**, the public purpose of the Project is to further public health and the environment, and to implement the purposes of ARRA; and

**WHEREAS**, the Department has a reasonable expectation of receiving a benefit or value that is at least equivalent public health and environmental benefits to be derived from the Project and the financing thereof using ARRA funds, and the additional subsidization provided in Section 6 below is mandated by ARRA and is not a gratuitous donation;

**NOW, THEREFORE**, in consideration of the covenants and agreements hereinafter set forth to be kept and performed by the parties hereto, it is hereby agreed by and between the parties as follows:

**SECTION 1. Bonds**. For the purpose of financing the costs of the Project and certain administrative costs relating to the issuance of the Bonds, as described generally in Exhibit A hereto, the Department has made a commitment to make a loan of \$1,183,000 of funds derived under ARRA, to be evidenced by the City's Utilities Revenue Bond, Series 2009 (the "Bonds"), under the terms and conditions specified in the Federal Act, the State Act, a Commitment Agreement dated as of \_\_\_\_\_, 20\_\_\_\_, a Loan & Pledge Agreement dated as of \_\_\_\_\_, 20\_\_\_\_, an ordinance adopted by the governing authority of the City on August 10, 2009, and the Bonds, provided that all of the conditions and requirements hereinafter set forth are fulfilled to the satisfaction of the Department.

The Department will separately manage and track apportionments, allotments, obligations, and expenditures related to the Bonds for accounting purposes.

The Bonds shall be governed by the aforesaid Commitment Agreement and Loan Agreement. However, the Bonds shall also be subject to the additional provisions and requirements set forth herein, and shall be entitled to the benefits of the additional subsidization required by ARRA and set forth herein.

**SECTION 2. Commencement of Construction; Contract**. The City agrees that each phase of the Project being financed in whole or in part with proceeds of the Bonds will be subject to a binding construction contract and/or will be under construction no later than February 16, 2010. As evidence of compliance with this section, the City will furnish the Department with an executed copy of any applicable construction contract and/or a notice to proceed with construction no later than February 16, 2010. If the Project is the subject of multiple construction contracts, then all such construction contracts relating to the portion of the Project that is being funded with the Bonds must be entered into, or each such phase of the Project be under construction, no later than February 16, 2010.

SECTION 3. Use of American Iron, Steel, and Manufactured Goods. In order to comply with Section 1605 of ARRA, the City agrees that all of the iron, steel, and manufactured goods used in the portion of the Project that is funded in whole or in part with the Bonds shall be produced in the United States unless the head of the United States Department of Environmental Quality ("EPA") finds that:

- (a) applying the foregoing requirement would be inconsistent with the public interest;
- (b) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- (c) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall Project by more than 25 percent.

The City agrees that the Project engineer(s) will in good faith design the Project and solicit bids for construction with American-made iron, steel and manufactured goods, and that it will include the applicable "Buy American" terms in any request for proposal or solicitations for bids and in all contracts related to the Project. Language similar to that attached hereto as Exhibit B may be used for this purpose.

If the City determines that it cannot comply with the requirements of this section, it will request a waiver in accordance with procedures set forth by EPA, and shall notify the Department that it is requesting such a waiver from EPA. If the head of EPA determines that it is necessary to waive the application of this section based on a finding under subsection (b), the head of EPA shall publish in the Federal Register a detailed written justification as to why the provision is being waived. For purposes of this Section:

**"Steel"** means an alloy that includes at least 50% iron, between 0.02% and 2% carbon, and may include other elements. Production in the United States of the iron or steel used in the Project requires that all manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives. The requirements of this Section 3 do not apply to iron or steel used as components or subcomponents of manufactured goods used in the Project.

**"Manufactured Good"** means a good brought to the construction site of the Project for incorporation into the Project that has been (a) processed into a specific form and shape or (b) combined with other raw material to create a material that has different properties than the properties of the individual raw materials. There is no requirement with regard to the origin of components or subcomponents in manufactured goods, as long as the manufacture of the goods occurs in the United States.

**"Reasonably available quantity"** means that the quantity of iron, steel, or the relevant manufactured good is available or will be available at the time needed and place needed and in the proper form or specification as specified in the Project plans and designs.

**"Satisfactory quality"** means the quality of iron, steel, or the relevant manufactured good as specified in the project plans and designs.

SECTION 4. Davis-Bacon Wage Rate Requirements. In order to comply with Section 1606 of ARRA, the City agrees that all laborers and mechanics employed by contractors and subcontractors on the portion of the Project that is funded in whole or in part with the Bonds shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality of the City as determined by the Secretary of the United States Department of Labor ("DOL") in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code. DOL provides all pertinent information related to compliance with the foregoing requirements, including prevailing wage rates and instructions for reporting. The City will ensure that all construction contracts relating to the portion of the Project that is funded in whole or in part with the Bonds will require that the contractor comply with the aforesaid wage and reporting requirements. This section shall not apply to "force account" work where the City may perform construction work using its own employees rather than any contractor or subcontractor.

SECTION 5. Prohibited Uses. None of the proceeds of the Bonds shall be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool, unless the owner(s) or user(s) of such facility is or are using the utility services furnished by the Project as a member of the general public.

None of the proceeds of the Bonds shall be used for the purchase of land or any interest in land, including without limitation any easement, servitude or leasehold interest, as authorized by section 603(c) of the Federal Water Pollution Control Act or for activities authorized by section 1452(k) of the Safe Drinking Water Act, however proceeds of the Bonds may be used to purchase land under the authority of Section 1452(a)(2) of the Safe Drinking Water Act.

SECTION 6. Additional Subsidization. In order to meet the federal-law mandate of ARRA that at least 50% of ARRA funds utilized by the State Revolving Fund be used to provide additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans or grants or any combination of these, the Department agrees that it shall forgive 100% of the the indebtedness represented by the Bonds. Upon the payment of each principal draw on the Bonds under the terms of the Loan Agreement, and without any further action on the part of the Department or the City, 100% of the principal amount of such draw on the Bonds shall immediately and irrevocably be deemed to be forgiven by the Department.

Notwithstanding any law or contractual provision to the contrary, the forgiveness at any time of any of the principal of the Bond, or even all of the principal theretofore advanced by the Department, shall in no way extinguish the Bond or the obligation thereof with respect to the yet-to-be advanced portion of the principal thereof.

SECTION 7. Reporting Requirements under Section 1512 of ARRA. Section 1512 of ARRA (the "Jobs Accountability Act") requires that the Department make quarterly reports to EPA regarding the use of grant moneys received under ARRA. In order to assist the Department in complying with the Jobs Accountability Act, the City certifies to the Department that to the best of its knowledge, and as of the date of this agreement, the Project will provide the following jobs:

Number of temporary construction jobs \_\_\_\_\_  
Number of permanent jobs retained \_\_\_\_\_  
Number of new permanent jobs created \_\_\_\_\_

The City will update and/or confirm the foregoing employment figures whenever it becomes aware of any changes, or upon request of the Department.

SECTION 8. Relating to Article VII, Section 14 of the Louisiana Constitution. As described in the preambles hereto, Division A, Title VII of ARRA provides for additional federal capitalization grants to the State Revolving Fund, and mandates that the Department apply not less than 50 percent of such additional federal capitalization grants be used to provide additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans or grants or any combination of these. The State is not required to furnish any matching funds in order to obtain the additional federal capitalization grant under ARRA, thus the moneys being used to purchase the Bonds are 100% federal funds. Pursuant to ARRA, the Department is under a federal mandate to provide additional subsidization with these federal funds and to accomplish the following stated goals of ARRA:

- (1) to preserve and create jobs and promote economic recovery;
- (2) to assist those most impacted by the recession.
- (3) to provide investments needed to increase economic efficiency by spurring technological advances in science and health.
- (4) to invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits.
- (5) to stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

In granting the additional subsidization in Section 6 above, it is not the intent of the Department to enter into a gratuitous transfer of public funds because both the Department and the City expect that the additional subsidization will fulfill the stated purposes of ARRA set forth above, and that they will each receive something of value in return for the performance of their obligations hereunder and under the Bonds, which is:

- (a) in the case of the Department, the fulfillment of the mission of the Department to ensure that wastewater treatment systems within the state are in compliance with state and federal environmental regulations, and to provide clean and environmentally safe wastewater treatment facilities for the people of the State, thereby improving public health; and
- (b) in the case of the City, the fulfillment of its mission to ensure that its public wastewater treatment system is in compliance with state and federal environmental regulations, and to provide clean and environmentally safe wastewater treatment facilities for its citizens, thereby improving public health.

Additionally, both the Department and the City will have reciprocal obligations relating to the satisfaction of the additional requirements of ARRA set forth in Sections 2, 3 and 4 above, both in terms of complying with such sections and, in the case of the Department, ensuring compliance and making any necessary reporting of such compliance required by ARRA.

The Department and the City further find and determine that (a) the Department is legally mandated by ARRA to provide the additional subsidization provided herein, (b) both the Department and the City have the legal authority to enter into this Agreement, (c) the Project being financed with ARRA funds is for a public purpose in that it provides clean and environmentally safe wastewater treatment services to the City's sewerage customers and protects the environment, (d) the cost of the additional subsidization required by ARRA creates a public benefit, specifically a public health and environmental benefit, proportionate to its cost and (e) there is a reasonable expectation on the part of the Department of receiving at least equivalent value (in terms of public health and environmental benefits and furthering the goals of ARRA) in exchange for the additional subsidization provided in Section 6 above.

SECTION 9. Compliance with Executive Order BJ 2008-29. (a) The loans described in Section 1 above are conditioned on the availability of sufficient funds from ARRA and from other sources available to the Department to fulfill the obligations of the Department to make the loans hereunder.

(b) The Department has either (i) received written delegation of authority as described in Section 1 of Executive Order BJ2008-29, from the Director of the Office of Contractual Review, Division of Administration, with the approval of the Commissioner of Administration, as shown on Exhibit C hereto, or (ii) such officers have indicated their approval of this Agreement as indicated on the signature page hereof.

(c) Compliance by the City with the terms of this agreement shall be monitored by \_\_\_\_\_ (name and title). It is also acknowledged that ARRA requires significant and ongoing monitoring and reporting by the Department to the U.S. Environmental Protection Agency with regard to compliance by the City with the application requirements of ARRA. Written reports shall be provided to the Department by the City at least every six (6) months concerning the use of funds and the specific goals and objectives for the use of the funds, in such form as may be required by the Department.

SECTION 10. Effective Date; Termination. This Agreement shall be effective on last date that this Agreement is executed by one of the parties hereto. This Agreement shall terminate upon the payment in full of the Bonds.

SECTION 11. Beneficiaries. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon, or to give to, any person or corporation, other than the Department and the City any right, remedy or claim under or by reason of this Agreement or any covenant, condition or stipulation thereof; and all the covenants, stipulations, promises and agreements contained herein shall be for the sole and exclusive benefit of the Department and the City.

SECTION 12. Successors and Assigns. Whenever in the Agreement any party or governing authority is named or referred to, it shall be deemed to include its successors and assigns and all the covenants and agreements contained herein shall bind and inure to the benefit of said successors and assigns whether so expressed or not.

SECTION 13. Severability. In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of hereof, but this Agreement shall be construed and enforced as if such illegal or invalid provisions had not been contained therein. Any constitutional or statutory provision enacted after the date hereof which validates or makes legal any provision of this Agreement which would not otherwise be valid or legal shall be deemed to apply to this Agreement.

SECTION 14. Amendment. This Agreement may be amended, supplemented or modified in writing by the consent of both the Department and the City.

SECTION 15. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which constitute but one and the same instrument.

SECTION 16. Applicable Law. This Commitment Agreement shall be governed by and construed in accordance with the laws of the State of Louisiana.

SECTION 17. Captions. The captions or headings in this Agreement are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Department and the City have caused this Supplemental Loan Agreement to be executed and accepted on the respective dates set forth below, but dated for convenience of the parties as of the date first above-written.

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

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

CITY OF NATCHITOCHEs, STATE OF LOUISIANA

By: Wayne McCallister  
Mayor

ATTEST:

By: Charles S. Stevenson  
Clerk

(SEAL)

**[UNLESS A DELEGATION OF AUTHORITY IS ATTACHED HERETO AS EXHIBIT C, THE FOLLOWING APPROVALS ARE REQUIRED]**

This Agreement is approved in accordance with Executive Order BJ 2008-29

Date: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Commissioner of Administration

Date: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Director, Office of Contractual Review

**EXHIBIT A  
to Supplemental Loan Agreement**

**DESCRIPTION OF PROJECT  
AND PRELIMINARY PROJECT BUDGET**

**[TO BE FURNISHED BY CITY**

**SAMPLE BIDDER CERTIFICATIONS  
RELATING TO BUY AMERICAN REQUIREMENTS**

1. Identification of American-made Iron, Steel, and Manufactured Goods: Consistent with the terms of the Purchaser's bid solicitation and the provisions of ARRA Section 1605, the Bidder certifies that this bid reflects the Bidder's best, good faith effort to identify domestic sources of iron, steel, and manufactured goods for every component contained in the bid solicitation where such American-made components are available on the schedule and consistent with the deadlines prescribed in or required by the bid solicitation.

2. Verification of U.S. Production: The Bidder certifies that all components contained in the bid solicitation that are American-made have been so identified, and if this bid is accepted, the Bidder agrees that it will provide reasonable, sufficient, and timely verification to the Purchaser of the U.S. production of each component so identified.

3. Documentation Regarding Non- American-made Iron, Steel, or Manufactured Goods: The Bidder certifies that for any component or components that are not American-made and are so identified in this bid, the Bidder has included in or attached to this bid one or both of the following, as applicable:

(a) Identification of and citation to a categorical waiver published by the U.S. Environmental Protection Agency in the Federal Register that is applicable to such component or components, and an analysis that supports its applicability to the component or components;

(b) Verifiable documentation sufficient to the Purchaser, as required in the bid solicitation or otherwise, that the Bidder has sought to secure American-made components but has determined that such components are not available on the schedule and consistent with the deadlines prescribed in the bid solicitation, with assurance adequate for the Bidder under the applicable conditions stated in the bid solicitation or otherwise.

4. Information and Detailed Justification Regarding Non- American-made Iron, Steel, or Manufactured Goods: The Bidder certifies that for any such component or components that are not so available, the Bidder has also provided in or attached to this bid information, including but not limited to the verifiable documentation and a full description of the bidder's efforts to secure any such American-made component or components, that the Bidder believes are sufficient to provide and as far as possible constitute the detailed justification required for a waiver under section 1605 with respect to such component or components. The Bidder further agrees that, if this bid is accepted, it will assist the Purchaser in amending, supplementing, or further supporting such information as required by the Purchaser to request and, as applicable, implement the terms of a waiver with respect to any such component or components.

**EXHIBIT B-2**  
**to Supplemental Loan Agreement**

**SAMPLE CONTRACT LANGUAGE**  
**RELATING TO BUY AMERICAN REQUIREMENTS**

The Contractor acknowledges to and for the benefit of the Louisiana Department of Environmental Quality (the "Purchaser") and the Municipal Facilities Revolving Loan Fund (the "SRF") that it understands the goods and services under this Agreement are being funded with monies made available by the American Recovery and Reinvestment Act of 2009 ("ARRA") (or are being made available for a project being funded with monies made available by ARRA) and such law contains provisions commonly known as "Buy American;" that requires all of the iron, steel, and manufactured goods used in the project be produced in the United States ("Buy American Requirements") including iron, steel, and manufactured goods provided by the Contractor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the SRF that (a) the Contractor has reviewed and understands the Buy American Requirements, (b) all of the iron, steel, and manufactured goods used in the project will be and/or have been produced in the United States in a manner that complies with the Buy American Requirements, unless a waiver of the requirements is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the Buy American Requirements, as may be requested by the Purchaser or the SRF. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Purchaser or SRF to recover as damages against the Contractor any loss, expense or cost (including without limitation attorney's fees) incurred by the Purchaser or SRF resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the SRF or any damages owed to the SRF by the Purchaser). While the Contractor has no direct contractual privity with the SRF, as a lender to the Purchaser for the funding of its project, the Purchaser and the Contractor agree that the SRF is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the SRF

**EXHIBIT C**  
**to Supplemental Loan Agreement**

**DELEGATION OF AUTHORITY**  
**PURSUANT TO EXECUTIVE ORDER BJ 2008-29**

The following entitled Ordinance having been previously introduced on July 27, 2009, notice of introduction having been published in the City's official journal on July 31, 2009 and a public hearing on the adoption thereof held on August 10, 2009, was offered for final adoption by Ms. Morrow and seconded by Mr. Mims:

**ORDINANCE NO. 044 OF 2009**

**AN ORDINANCE AUTHORIZING THE CITY OF NATCHITOCHEs, STATE OF LOUISIANA, TO BORROW NOT EXCEEDING FIVE MILLION DOLLARS (\$5,000,000) OF UTILITIES REVENUE BONDS, SERIES 2009, FOR THE PURPOSE OF PAYING THE COST OF CONSTRUCTING AND ACQUIRING IMPROVEMENTS AND EXTENSIONS TO ITS COMBINED WATERWORKS PLANT AND SYSTEM, ELECTRIC POWER AND LIGHT PLANT AND SYSTEM, AND SEWER SYSTEM OF SAID CITY; AUTHORIZING THE ISSUANCE OF THE CITY'S UTILITIES REVENUE BONDS, SERIES 2009, TO EVIDENCE SAID DEBT; AUTHORIZING THE EXECUTION OF A LOAN AND PLEDGE AGREEMENT WITH THE LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS; PROVIDING FOR THE SALE AND DELIVERY OF SAID BONDS TO THE LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS; PRESCRIBING THE FORM, FIXING THE DETAILS AND PROVIDING FOR THE PAYMENT OF PRINCIPAL OF AND INTEREST ON SUCH BONDS AND ENTERING INTO CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION WITH THE SECURITY AND PAYMENT OF SAID BONDS; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH**

**WHEREAS**, the United States of America, pursuant to the Safe Drinking Water Act Amendments of 1996 (the "Federal Act"), specifically Section 300j-12 of Title 42 of the United States Code, is authorized to make capitalization grants to states to be used for the purpose of providing loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in a state loan fund, or to provide other financial assistance authorized under the Federal Act to community water systems and nonprofit non-community water systems, other than systems owned by Federal agencies; and

**WHEREAS**, in order to be eligible to receive such capitalization grants, a state must establish a drinking water treatment revolving loan fund and each grant to a state under the Federal Act must be deposited in the state loan fund established by the state; and

**WHEREAS**, the State of Louisiana (the "State"), pursuant to Chapter 32 of Title 40 of the Louisiana Revised Statutes of 1950, as amended (La. R.S. 40:2821, *et seq.*) (the "State Act"), has established a Drinking Water Revolving Loan Fund in the custody of the Department (the "State Loan Fund") to be used for the purpose of providing financial assistance for the improvement of public drinking water systems in the State, as more fully described in Section 2825(A)(2) of the State Act, and has authorized the Department's Office of Public Health to establish assistance priorities and perform oversight and other related activities with respect to the State Loan Fund; and

**WHEREAS**, the City of Natchitoches, State of Louisiana (the "Issuer") now owns and operates a waterworks plant and system, electric power and light plant and system, and sewer system, as a combined utility, (the "System") and desires to construct and acquire improvements and extensions to the System (the "Project"), and to finance the cost thereof through the issuance of utilities revenue bonds of the Issuer, payable solely from the revenues of the System, pursuant to the provisions of Part XIII, Chapter 4, and Chapter 13, Title 39 of the Louisiana Revised Statutes of 1950, as amended (the "Act"), and other constitutional and statutory authority, as hereinafter provided; and

**WHEREAS**, pursuant to the Act, it is now the desire of the Issuer to authorize the issuance of not exceeding Five Million Dollars (\$5,000,000) of Utilities Revenue Bonds, Series 2009, of the Issuer (the "Bonds"), the Bonds to be secured by and payable in principal and interest and redemption premium, if any, solely from the net income and revenues derived or to be derived from the operation of the System; and

**WHEREAS**, in accordance with §300j(b) of the Federal Act, the Department has prepared an intended use plan with respect to funds available in the State Loan Fund, which includes the Project, and has approved the Issuer's application for a loan from the State Loan Fund to finance the Project; and

**WHEREAS**, the Issuer now has outstanding the following described bonds payable from a pledge and dedication of the income and revenues of the System:

\$1,414,554.61 of Utilities Revenue Bonds, Series 1993A, maturing on December 1<sup>st</sup> of the years 2009 to 2013, inclusive, bearing interest at the rate of 2.95% per annum, and being the outstanding bonds of an issue of Five Million Dollars (\$5,000,000), and issued by virtue of an Ordinance adopted by the City Council on January 11, 1993, payable from a pledge and dedication of the income and revenues of the Utilities System (the "Series 1993A Bonds");

\$985,000 of Utilities Revenue Bonds, Series 1999, maturing on December 1<sup>st</sup> of the years 2009 to 2019, inclusive, bearing interest at the rate of 3.95% per annum, and being the outstanding bonds of an issue of One Million Five Hundred Thousand Dollars (\$1,500,000), and issued by virtue of an Ordinance adopted by the City Council on May 24, 1999, payable from a pledge and dedication of the income and revenues of the Utilities System (the "Series 1999 Bonds");

\$1,595,000 of Utilities Revenue Bonds, Series 2003A, maturing on December 1<sup>st</sup> of the years 2009 to 2022, inclusive, bearing interest at the rates of 3.35% to 5.00% per annum, and being the outstanding bonds of an issue of Two Million Dollars (\$2,000,000) and issued by virtue of an ordinance adopted by the City Council on August 20, 2003, payable from a pledge and dedication of the income and revenues of the Utilities System (the "Series 2003A Bonds"); and

\$2,895,000 of Utilities Revenue Refunding Bonds, Series 2003B, maturing on December 1<sup>st</sup> of the years 2009 to 2013, inclusive, bearing interest at the rates of 3.35% to 4.3% per annum, and being the outstanding bonds of an issue of Five Million Nine Hundred Sixty-Five Thousand Dollars (\$5,965,000) and issued by virtue of an ordinance adopted by the City Council on August 20, 2003, payable from a pledge and dedication of the income and revenues of the Utilities System (the "Series 2003B Bonds")

**WHEREAS**, pursuant to the authority of Part XIII, Chapter 4, Title 39 of the Louisiana Revised Statutes of 1950, as amended, and other constitutional and statutory authority, the Issuer gave notice of its intention to issue Utilities Revenue Bonds in an amount not exceeding \$5,000,000 without the necessity of the holding of an election thereon, held a public hearing thereon on June 22, 2009, and no objections were made to the issuance of such bonds and no petitions were filed requesting an election thereon; and

**WHEREAS**, Section 1531 of Title I of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (enacted February 17, 2009) ("ARRA"), added §54AA to the Internal Revenue Code of 1986, as amended, authorizing state and local governments, at their option, to issue two general types of "Build America Bonds" as taxable governmental bonds with federal subsidies for a portion of their borrowing costs; and

**WHEREAS**, it is now desired to fix the details necessary with respect to the issuance of the Bonds and to provide for the authorization and issuance thereof;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Natchitoches, State of Louisiana, acting as the governing authority thereof, that:

#### **ARTICLE 1) DEFINITIONS**

Section a). Definitions. The following terms as used in this Authorizing Ordinance shall have the following respective meanings, such definitions to be equally applicable to both the singular and plural sense of any of such terms:

"**Act**" means the Part XIII, Chapter 4, Title 39 of the Louisiana Revised Statutes of 1950, as amended.

"**Administrative Fee**" means, with respect to the 2009 Bonds and any other Bonds purchased by the Department from the State Loan Fund, the annual fee equal to one-half of one

percent (0.5%) per annum of the outstanding principal amount of such bonds, or such lesser amount as the Department may approve from time to time, which shall be payable each year in two equal semi-annual installments on each Interest Payment Date.

**"ARRA Funds"** means additional federal capitalization grant funds received by the Louisiana Drinking Water Revolving Loan Fund pursuant to the Title VII, Division A of ARRA entitled "State and Tribal Assistance Grants."

**"Authorizing Ordinance" or "Ordinance"** means this Ordinance authorizing the issuance of the Bonds, as hereafter amended or supplemented.

**"Bond Register"** means the registration books of the Paying Agent (initially the Director of Finance of the Issuer), in which registration of the ownership of the Bonds and the transfers of the Bonds shall be made as provided herein.

**"Bonds"** means the Utilities Revenue Bonds, Series 2009, of the City of Natchitoches, State of Louisiana, authorized to be issued by this Authorizing Ordinance in the total aggregate principal amount of Five Million Dollars (\$5,000,000) and in accordance with the provisions of the Loan Agreement.

**"Code"** means the Internal Revenue Code of 1986, as amended.

**"Completion Date"** means the date on which the operation of the completed Project financed with the proceeds of the Bonds is initiated or capable of being initiated, whichever is earlier, as that date is certified by the Authorized Officer (as defined in the Loan Agreement) of the Issuer, and as more fully described in the Loan Agreement.

**"Costs of the Project"** means, with reference to any Project, all capital costs incurred or to be incurred for such Project, including but not limited to (a) engineering, financing, legal and other fees and expenses related to the issuance of such series of the Bonds, (b) acquisition and construction costs of the Project, (c) interest on the Bonds during construction, and (d) a reasonable allowance for contingencies, all to the extent permitted by the Act and any rules or regulations promulgated thereunder.

**"Defeasance Obligations"** means cash and/or Government Securities.

**"Delivery Date"** means the date on which the Bonds are delivered to the Department, and the first installment of the purchase price therefor is paid by the Department to the Issuer.

**"Department"** means the Louisiana Department of Health and Hospitals, an executive department and agency of the State of Louisiana, and any successor to the duties and functions thereof.

**"Depreciation and Contingencies Fund"** means the bond or account described in Section 3.4(d) hereof.

**"Engineer"** means a nationally known consulting utility engineer or firm of consulting utility engineers.

**"Executive Officers"** means collectively, the Mayor and the Clerk of the Issuer.

**"Federal Act"** means the Safe Drinking Water Act Amendments of 1996, specifically Section 300j-12 of Title 42 of the United States Code; and other statutory and regulatory authority related thereto.

**"Final Loan Installment"** means the final disbursement of loan proceeds (Bond proceeds) of the purchase price by the Department to the Issuer under the terms of the Loan Agreement, which installment may be paid no later than 180 days after the Completion Date.

**"Fiscal Year"** means the one year period beginning on June 1 and ending on May 31 of the following year. After the Outstanding Parity Bonds have been paid, defeased or otherwise retired, Fiscal Year may mean any other one year period selected by the Issuer.

**"Governing Authority"** means the City Council of the Issuer, or its predecessor or successor in function.

**"Government Securities"** means and includes non-callable direct general obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United State of America, which may be United States Treasury Obligations such as the State and Local Government Series and may be in book-entry form.

**"Interest Payment Date"** means June 1 and December 1 of each year, commencing December 1, 2009.

**"Issuer"** means the City of Natchitoches, State of Louisiana.

**"Loan Agreement"** means the Loan and Pledge Agreement to be entered into by and between the Issuer and the Department, prior to the delivery of any Bonds that are purchased by the Department, which will contain certain additional agreements relating to such Bonds and any other series of Bonds purchased by the Department from the State Loan Fund, and with respect to the Project as it may be supplemented, modified or amended from time to time in accordance with the terms thereof.

**"Net Revenues"** means the Revenues of the System, after payment from the Revenues of all reasonable and necessary expenses of operating and maintaining the System.

**"Non-ARRA Funds"** means federal capitalization grant funds received by the Louisiana Drinking Water Revolving Loan Fund pursuant to authority other than the Title VII, Division A of ARRA, or other available funds in the Louisiana Drinking Water Revolving Fund that are derived from sources other than ARRA Funds.

**"Outstanding"** when used with respect to Bonds means, as of the date of determination, all Bonds theretofore issued and delivered under this Authorizing Ordinance, except:

- i) Bonds theretofore cancelled by the Paying Agent or delivered to the Paying Agent for cancellation;
- ii) Bonds for which payment or redemption sufficient funds have been theretofore deposited in trust for the Owners of such Bonds, provided that notice of such redemption has been duly given or provided for pursuant to this Authorizing Ordinance, to the satisfaction of the Paying Agent, or waived;
- iii) Bonds in exchange for or in lieu of which other Bonds have been registered and delivered pursuant to this Authorizing Ordinance; and
- iv) Bonds alleged to have been mutilated, destroyed, lost, or stolen which have been paid as provided in this Authorizing Ordinance or by law;

**"Outstanding Parity Bonds"** means the Issuer's outstanding Utilities Revenue Bonds, Series 1993A, Series 1999, and Series 2003A and the Issuer's outstanding Utilities Revenue Refunding Bonds, Series 2003B, as more fully described in the preamble hereto.

**"Outstanding Parity Bond Ordinances"** means the ordinances adopted by the governing authority of the Issuer on January 11, 1993, May 24, 1999 and August 20, 2003, authorizing the issuance of the Outstanding Parity Bonds.

**"Owner"** or **"Owners"** when used with respect to any Series 2009 Bond, means the Person in whose name such Bond is registered in the Bond Register.

**"Parity Obligations"** means any additional pari passu indebtedness hereafter issued by the Issuer and payable from the Revenues on a parity with the Outstanding Parity Bonds and the Bonds.

**"Person"** means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof.

**"Principal Payment Date"** means December 1 of each year, commencing December 1, 2011.

**"Project"** means the improvements and extensions to the System, which are being financed through the issuance of the Bonds, as described more specifically in the Loan Agreement.

**"Record Date"** for the interest payable on any Interest Payment Date means the 15th calendar day of the month next preceding such Interest Payment Date, whether or not such day is a business day.

**"Registrar"** or **"Paying Agent"** means the Director of Finance, unless and until a successor Registrar shall have become such pursuant to the applicable provisions of this Ordinance, and

thereafter ARegistrar@ shall mean such successor Registrar.

**"Reimbursement Expenditures"** means Costs of the Project made prior to the date of delivery of the Bonds, but not more than sixty days prior to April 8, 2009, which was the date of adoption of an "official intent" Ordinance pursuant to Section 1.150-2 of the United States Treasury Regulations under Section 150 of the Code.

**"Reserve Fund"** means the fund or account described in Section 3.4(c) hereof.

**"Reserve Fund Requirement"** means, as of any date, the maximum scheduled principal and interest requirements in any succeeding twelve (12) month period on the Parity Bonds, the Bonds and any Parity Obligation. After the Series 1993A Bonds and Series 1999 Bonds have been discharged by payment or defeasance, **"Reserve Fund Requirement"** shall mean a sum equal to the lesser of (i) 10% of the proceeds of the Bonds, the Parity Bonds and any issue of Additional Parity Bonds, (ii) the highest combined principal and interest requirements for any succeeding Bond Year on the Bonds, the Parity Bonds and any issue of Additional Parity Bonds hereafter issued in the manner provided by Section 3.4 hereof or (iii) 125% of the average aggregate amount of principal installments and interest becoming due in any Bond Year on the Bonds, the Parity Bonds and any Additional Parity Bonds.

**"Revenues"** means all income and revenues to be derived by the Issuer from the operation of the System, including earnings on investments in the funds and accounts described in Section 3.4 hereof.

**"Scheduled Completion Date"** is the date designated as such in accordance with the provisions of the Loan Agreement, regardless of whether or not such date precedes or follows the Completion Date.

**"State"** means the State of Louisiana.

**"State Loan Fund"** means the Drinking Water Revolving Loan Fund established by the State of Louisiana, pursuant to Chapter 32 of Title 40 of the Louisiana Revised Statutes of 1950, as amended (La. R.S. 30:2821, *et seq.*) in the custody of the Department, which is to be used for the purpose of providing financial assistance for the improvement of public drinking water systems in the State, as more fully described in La. R.S. 30:2825(A)(2).

**"System"** means the combined waterworks plant and system, electric power and light plant and system and sewer system of the Issuer, a revenue producing public utility lying within and without the boundaries of the Issuer. The complete combined waterworks plant and system, electric power and light plant and system and sewer system of the Issuer, as said plants and systems now exist and as they may be hereafter improved, extended or supplemented while any of the Outstanding Parity Bonds or the Bonds remain outstanding, including specifically all properties of every nature owned, leased or operated by the Issuer and used or useful in the operation of said plants and systems, and including real estate, personal and intangible properties, contracts, franchises, leases and choses in action, whether lying within or without the boundaries of the Issuer.

**"User Fees"** means charges or fees imposed on users of the System for the cost of

administering, operating and maintaining the System, plus debt service coverage required to be maintained for the security and payment of bonds and other debt obligations of the Issuer.

**“Variable Rate Obligations”** means Obligations issued with a variable, adjustable, convertible or other similar interest rate which is not fixed in percentage for the remaining term thereof.

Section b). Interpretation. In this Ordinance, unless the context otherwise requires, i) words importing the singular include the plural and vice versa, ii) words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders and iii) the title of the offices used in this Ordinance shall be deemed to include any other title by which such office shall be known under any subsequently adopted charter.

## **ARTICLE 2) THE BONDS**

Section a). Authorization of Bonds. i) For the purpose of paying the cost of constructing and acquiring the Project, in compliance with and under the authority of the Act, and other constitutional and statutory authority, there is hereby authorized the incurring of an indebtedness of Five Million Dollars (\$5,000,000) for, on behalf of and in the name of the Issuer, and to represent the said indebtedness, this Governing Authority does hereby authorize the issuance of Five Million Dollars (\$5,000,000) of Utilities Revenue Bonds, Series 2009, of the Issuer, in one or more series, which shall be subsequently determined. The entire indebtedness of \$5,000,000 shall be deemed to have been incurred upon the payment of the first installment of the purchase price by the Department and such initial installment and the promise of the Department to pay the remaining installments in accordance with the terms of the Loan and Pledge Agreement are accepted as due consideration for the incurring of the indebtedness of \$5,000,000.

Section b). Denomination, Dates, Maturity and Interest Rate. The Bonds of any series shall be initially issued in the form of a fully registered bond, number R-1, shall be dated the Delivery Date, shall be in substantially the form attached hereto as Exhibit A and shall be designated as “Build America Bonds” including a legend to the effect that interest on the Bonds will be included in gross income of the Owner thereof for federal income purposes. In addition, should a portion of the Bonds be purchased by the Department with ARRA Funds, the Bonds will reflect the proper designation and principal payment schedule.

The Bonds shall mature in not more than twenty (20) installments of principal, payable annually on a Principal Payment Date that is not more than one (1) year after the Completion Date and annually thereafter, in compliance with the requirements of the Federal Act and the State Act that the first repayment of principal be not more than (1) year after the Completion Date. In no event shall the final maturity of the Bonds be more than twenty-two (22) years from the Delivery Date to the Department.

The amount of the principal installments of the Bonds shall be determined as of the Delivery

Date, by the Executive Officers, in integral multiples of One Thousand Dollars (\$1,000) or Five Thousand Dollars (\$5,000), so that the combined annual principal, interest and Administrative Fee on the Bonds from and after the Scheduled Completion Date due in each Bond Year shall be approximately equal. In the event that less than the authorized principal amount of the Bonds is purchased, then upon the payment of the Final Loan Installment, the schedule of principal payments shall be recalculated so that the actual amount of principal, interest and Administrative Fee due in each Bond Year are approximately equal and the principal installments are in integral multiples of One Thousand Dollars (\$1,000) or Five Thousand Dollars (\$5,000).

Except as hereinafter provided, the unpaid principal of the Bonds shall bear interest from the Delivery Date, or the most recent Interest Payment Date to which interest has been paid or duly provided for, at a rate of two and ninety-five hundredths percent (2.95%) per annum, said interest to be calculated on the basis of a 360-day year, consisting of twelve (12) 30-day months and payable on each Interest Payment Date. Interest on the Bonds on any Interest Payment Date prior to the Final Loan Installment shall be payable only on the aggregate amount of the purchase price which shall have been paid theretofore and shall accrue with respect to each purchase price installment only from the date of payment of such installment.

In addition to interest at the rate set forth above, at any time that the Department owns the Bonds, the Issuer will pay the Administrative Fee to the Department on each Interest Payment Date. In the event that (i) the Department owns any Bonds or the Department has pledged or assigned any Bonds in connection with its Drinking Water Revolving Loan Fund; and (ii) the Administrative Fee payable by the Issuer to the Department under the terms of the Loan Agreement is declared illegal or unenforceable by a court or an administrative body of competent jurisdiction, the interest rate borne by the Bonds shall be increased by one-half of one percent (0.50%) per annum, effective as of the date declared to be the date from which the Administrative Fee is no longer owed because of such illegality or unenforceability.

Notwithstanding the above, should a portion of the Bonds be purchased by the Department using ARRA Funds, then the Executive Officers are authorized to issue the Bonds in two series, with the Series 2009A Bonds to represent the principal amount of the Bonds purchased by the Department using ARRA Funds and the Series 2009B Bonds to represent the principal amount to be purchased by the Department using non-ARRA Funds. Should ARRA Funds be available, each series of Bonds shall be issued initially in the form of a single fully registered bond, to be numbered AR-1 and BR-1, respectively, with the annual principal amounts of each Bond to be such that there will be approximately annual level debt service falling due. The Executive Officers, at their discretion, may, at delivery, further separate the Series 2009B Bonds into two Bonds, one designated BR-1 which represents Project costs eligible for ARRA funding but actually purchased by the Department using non-ARRA Funds and the other designated BR-2 which will be purchased by the Department using non-ARRA funds."

Should the Issuer issue Bonds purchased by the Department with ARRA Funds, the Executive Officers are further authorized to execute and deliver any supplemental loan agreement and cooperative endeavor agreement as may be necessary in connection with the requirements of ARRA or any additional subsidization offered by the Department pursuant to ARRA.

Section c). Designation as Build America Bonds. The Bonds shall be "Build America

Bonds (Direct Payment)" pursuant to Section 54AA of the Code. Interest on the Bonds shall not be excluded from gross income for federal income tax purposes, and the Issuer irrevocably elects to designate all of the Bonds as "Build America Bonds" under Section 54AA of the Code and specifically as "qualified bonds" within the meaning of Section 54AA(g) of the Code.

All of the proceeds of the Bonds, other than no more than 2% of such proceeds used to pay issuance costs, plus investment proceeds thereof, will be used for capital expenditures and the issue price of the Bonds has no premium over the stated principal amount. None of the proceeds of the Bonds will be deposited to the Reserve Fund or to any other reasonably required reserve fund.

By this election, the Issuer will be entitled to a credit with respect to each interest payment as provided by Section 6431 of the Code equal to 35% of the interest payable under the Bonds on each Interest Payment Date. The Executive Officers are authorized and empowered to take any further action as may be necessary in order to qualify the Bonds as Build America Bonds (Direct Payment) under said Section 54AA and Section 6431 of the Code, including any necessary filings, agreements, forms (including IRS Form 8038-CP) or other documentation necessary to receive the 35% reimbursement described in said Sections. Should the Issuer or the Department determine that the use of any portion of the proceeds of the Series Bonds would not be allowable under ARRA, that portion may be issued as an additional series of the Series 2009A Bonds or added to the Series 2009B Bonds, as may be determined by the Executive Officers, which shall also be qualified "Build America Bonds (Direct Payment)" under this Section.

Section d). Commencement of Construction; Contract. The Issuer understands that each phase of the Project being financed in whole or in part with proceeds of the Series 2009A Bonds must be subject to a binding construction contract and/or be under construction no later than February 16, 2010. As evidence of compliance with this section, the Issuer will furnish the Department with an executed copy of any applicable construction contract and/or a notice to proceed with construction no later than February 16, 2010. If the Project is the subject of multiple construction contracts, then all such construction contracts relating to the portion of the Project that is being funded with the Series 2009A Bonds must be entered into, or each such phase of the Project be under construction, no later than February 16, 2010.

Section e). Use of American Iron, Steel, and Manufactured Goods. To comply with Section 1605 of ARRA, the Issuer agrees that all of the iron, steel, and manufactured goods used in the portion of the Project that is funded in whole or in part with the Series 2009A Bonds shall be produced in the United States unless the head of the United States Department of Environmental Quality ("EPA") finds that:

- (i) applying the foregoing requirement would be inconsistent with the public interest;
  - (ii) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;
- or

(iii) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall Project by more than 25 percent.

Section f). Davis-Bacon Wage Rate Requirements. To comply with Section 1606 of ARRA, the Issuer agrees that all laborers and mechanics employed by contractors and subcontractors on the portion of the Project that is funded in whole or in part with the Series 2009A Bonds shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality of the Issuer as determined by the Secretary of the United States Department of Labor ("DOL") in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code. DOL provides all pertinent information related to compliance with the foregoing requirements, including prevailing wage rates and instructions for reporting. The Issuer will ensure that all construction contracts relating to the portion of the Project that is funded in whole or in part with Series 2009A Bonds will require that the contractor comply with the aforesaid wage and reporting requirements. This section shall not apply to "force account" work where the Issuer may perform construction work using its own employees rather than any contractor or subcontractor.

Section g). Prohibited Uses. None of the proceeds of the Bonds shall be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool, unless the owner(s) or user(s) of such facility is or are using the utility services furnished by the Project as a member of the general public.

None of the proceeds of the Series 2009A Bonds shall be used for the purchase of land or any interest in land, including without limitation any easement, servitude or leasehold interest, as authorized by section 603(c) of the Federal Water Pollution Control Act or for activities authorized by section 1452(k) of the Safe Drinking Water Act, however proceeds of the Series 2009A Bonds may be used to purchase land under the authority of Section 1452(a)(2) of the Safe Drinking Water Act.

Section h). Optional Prepayment of Bonds. The principal installments of the Bonds are subject to prepayment by the Issuer at any time, in whole or in part, in the inverse order of maturity, at a prepayment price of par plus accrued interest and accrued Administrative Fee, if any, to the prepayment date.

Section i). Notice to Prepayment. In the event a portion of the Bonds is to be prepaid, such Bonds shall be surrendered to the Registrar, who shall note the date and amount of such prepayment in the space provided therefor on the Bonds. Official notice of such call of any of the Bonds for prepayment shall be given by means of first class mail, postage prepaid by notice deposited in the United States mail not less than thirty (30) days prior to the prepayment date addressed to the owner of each Bond to be prepaid at his address as shown on the Bond Register.

Section j). Registration. The Issuer shall cause the Bond Register to be kept at the principal office of the Paying Agent (initially the Director of Finance of the Issuer) in which registration of the Bonds and transfers of the Bonds shall be made as provided herein. The Bonds may be transferred, registered and assigned only on the Bond Register of the Paying Agent, and such registration shall be at the expense of the Issuer. The Bonds may be assigned by the execution of an

assignment form on the Bonds or by other instruments of transfer and assignment acceptable to the Paying Agent. A new Bond will be delivered by the Paying Agent to the last assignee (the new Owner) in exchange for such transferred and assigned Bond after receipt of the Bond to be transferred in proper form.

Section k). Form of Bonds. The Bonds and the endorsements to appear thereon shall be in substantially the form attached hereto as Exhibit A.

Section l) Execution of Bonds. The Executive Officers are hereby empowered, authorized and directed to do any and all things necessary and incidental to carry out all of the provisions of this Ordinance, to execute and deliver the Loan Agreement, to cause the necessary Bonds to be printed, to issue, execute and seal the Bonds and to effect the delivery thereof as hereinafter provided.

In connection with the issuance and sale of the Bonds, the Executive Officers are each authorized, empowered and directed to execute on behalf of the Issuer such additional documents, certificates and instruments as they may deem necessary, upon the advice of bond counsel, to effect the transactions contemplated by this Ordinance, the signatures of said Executive Officers on such documents, certificates and instruments to be conclusive evidence of the due exercise of the authority granted hereunder.

Section m) Sale and Delivery of the Bonds. The Bonds are awarded to and sold to the Department at a price of par plus accrued interest, if any, under the terms and conditions set forth in the Loan Agreement, and after their execution and authentication by the Registrar, the Bonds shall be delivered to the Department or its agents or assigns, upon receipt by the Issuer of the agreed purchase price.

Section n) Recital of Regularity. This Governing Authority having investigated the regularity of the proceedings had in connection with the Bonds and having determined the same to be regular, the Bonds shall contain the following recital, to-wit:

"It is certified that this Bond is authorized by and is issued in conformity with the requirements of the Constitution and statutes of the State of Louisiana."

### **ARTICLE 3) SECURITY FOR BONDS**

Section a). Security. The Bonds, equally with the Outstanding Parity Bonds, shall be secured by and payable in principal and interest solely by a pledge of the Revenues, subject to the prior payment of the reasonable and necessary expenses of operating and maintaining the System, and the Revenues are irrevocably and irpealably pledged in an amount sufficient for the payment of the Outstanding Parity Bonds and the Bonds in principal and interest as they shall respectively become due and payable, for the payment of the Administrative Fee and for the other purposes hereinafter set forth in this Authorizing Ordinance. The Revenues shall be set aside in a separate and special fund as hereinafter provided and shall be and remain so pledged for the security and payment of the Outstanding Parity Bonds and the Bonds in principal and interest, for the payment of the Administrative Fee and for all other payments provided in this Authorizing Ordinance, until the

Outstanding Parity Bonds and the Bonds shall be fully paid and discharged.

Section b). Outstanding Parity Bonds. The Bonds shall be and they are hereby issued on a parity with the Outstanding Parity Bonds more fully described in the preamble to this ordinance, and the Bonds shall rank equally with and shall enjoy complete parity of lien with said Outstanding Parity Bonds on all Revenues or other funds specially applicable to the payment of the Bonds and the Outstanding Parity Bonds, including the various funds established by the Outstanding Parity Bond Resolutions adopted by this Governing Authority in connection with the security and payment of the Outstanding Parity Bonds. This Governing Authority does hereby find, determine and declare that the Issuer has complied, or will comply prior to the delivery of the Bonds, with all the terms and conditions set forth in the Outstanding Parity Bond Resolutions with respect to authorizing the issuance of the Bonds on a parity with the Outstanding Parity Bonds.

Section c). Rate Covenant. The Issuer, through its Governing Authority, hereby covenants to fix, establish, maintain such rates and collect such fees, rents or other charges for the services and facilities of the System, and all parts thereof, and to revise the same from time to time whenever necessary, as will always provide revenues in each year sufficient to pay the necessary expenses of administering, operating and maintaining the System in each year, the principal and interest (including interest identified as Administrative Fee) maturing on the Bonds and the Outstanding Parity Bonds in each year, all reserves or sinking funds or other payments required for such year by this Authorizing Ordinance, and all other obligations or indebtedness payable out of the Revenues for such year, and that such rates, fees, rents or other charges shall not at any time be reduced so as to be insufficient to provide adequate revenues for such purposes and at any rate, the Governing Authority shall fix, establish, maintain, levy and collect such rates, fees, rents or other charges for services and facilities of the System to always provide revenues in each fiscal year sufficient to pay (1) the reasonable and necessary expenses of operating and maintaining the System in such fiscal year and (2) 125% of the required deposits to the Sinking Fund for such fiscal year.

Notwithstanding the foregoing, the Issuer covenants and agrees that the User Fees shall always be sufficient in each Fiscal Year to satisfy the requirements of Louisiana Administrative Code 33:IX.2209(C)(1), or any successor provision, that the User Fees generate sufficient revenues to cover the costs of operation, maintenance and replacement of the System.

Section d). Flow of Funds; Funds and Accounts. The Revenues shall continue to be deposited daily as the same may be collected in a separate and special bank account known and designated as "Utilities System Fund," heretofore established pursuant to the Outstanding Parity Bond Resolutions, and said fund shall be maintained and administered in the following order of priority and for the following express purposes:

i) The payment of all reasonable and necessary expenses of operating and maintaining the System.

ii) The maintenance of the Sinking Fund established pursuant to the Outstanding Parity Bond Resolutions (the "Sinking Fund") sufficient in amount to pay promptly and fully the principal of and the interest on the Outstanding Parity Bonds, the Bonds and any Parity Obligations issued hereafter in the manner provided by this Authorizing Ordinance, as they severally become due and payable, by transferring from the Utilities System Fund to the

Exchange Bank and Trust Company, in the City of Natchitoches, Louisiana, monthly in advance on or before the 20th day of each month of each year, those amounts required by the Outstanding Parity Bond Resolutions, a proportionate amount necessary to provide for the interest falling due and the Administrative Fee on the Bonds during the period extending from the date of issuance of the Bonds to one year before the first Principal Payment Date, and a sum equal to one-sixth (1/6) of the interest and Administrative Fee falling due on the next interest payment date and a sum equal to one-twelfth (1/12) of the principal falling due on the next principal payment date on the remainder of the Bonds; and thereafter, a sum equal to one-sixth (1/6) of the interest on the Bonds and Administrative Fee, if any, falling due on the next interest payment date and a sum equal to one-twelfth (1/12) of the principal of the Bonds falling due on the next principal payment date, together with such additional proportionate sum as may be required to pay said principal and interest as the same respectively become due. The depository for the Sinking Fund shall transfer from said Sinking Fund to the Paying Agent or any other paying agent bank or banks for the Bonds payable from said Fund at least three (3) days in advance of the date on which each payment of principal or interest falls due, funds fully sufficient to pay promptly the principal and interest so falling due on such date.

iii) The maintenance of a Reserve Fund established pursuant to the Outstanding Parity Bond Resolutions, by transferring from said Utilities System Fund to the Reserve Fund maintained by The Bank of New York Mellon Trust Company, N.A., in the City of Natchitoches, Louisiana, monthly in advance on or before the 20th day of each month of each year, a sum at least equal to 20% of the amount required to be paid into the Sinking Fund for such month as a result of the issuance of the Bonds, the payments into said Reserve Fund to continue until such time as there has been accumulated therein a sum equal to the Reserve Fund Requirement. After the retirement of the Series 1993A Bonds, the sum required for transfer each month in the preceding sentence shall be 20% of the amount required to be paid into the Sinking Fund each month for the payment of any Parity Obligation until the Reserve Fund Requirement is satisfied. The money in the Reserve Fund shall be retained solely for the purpose of paying the principal of and interest on Outstanding Parity Bonds or Bonds payable from the Sinking Fund as to which there would otherwise be default. In the event that Parity Obligations are issued hereafter in the manner provided by this Authorizing Ordinance, the payments into said Reserve Fund shall continue, or if the said payments have ceased because of the accumulation of the maximum amount provided above, then such payments shall be resumed until the Reserve Fund Requirement is accumulated.

iv) The maintenance of the Depreciation and Contingencies Fund established pursuant to the Outstanding Parity Bond resolutions to care for extensions, additions, improvements, renewals and replacements necessary to properly operate the System by transferring from the Utilities System Fund to the Depreciation and Contingencies Fund maintained by City Bank and Trust Company, in the City of Natchitoches, Louisiana, monthly on or before the 20th day of each month of each year, a sum equal to seven percent (7%) of the Revenues of the System for the preceding month, provided that such sum is available after provision is made for the payments required under paragraphs (a), (b) and (c) above. After the retirement of the Series 1993A Bonds, the sum required by the above sentence for deposit each month into the Depreciation and Contingencies Fund shall be specifically defined as an amount equal to seven percent (7%) of Revenues but such

percentage shall not be applied to Revenues used to purchase power or received due to fuel adjustment charges, or an amount equal to twenty-five percent (25%) of the amount scheduled that month for payment to the Sinking Fund, whichever is greater. Further, after the retirement of the Series 1993A Bonds, no payment need be made into the Depreciation and Contingencies Fund at any time the balance in said fund equals or exceeds One Million Dollars (\$1,000,000). In addition to caring for extensions, additions, improvements, renewals and replacements necessary to properly operate the System, the money in said Depreciation and Contingencies Fund shall also be used to pay the principal of and the interest on the Bonds, and the Administrative Fee, if any, then due, for the payment of which there is not sufficient money in the Sinking Fund or Reserve Fund provided for in paragraphs (b) and (c) above. The money in said Depreciation and Contingencies Fund, however, shall never be used for the making of improvements and extensions to the System or for payment of principal or interest on the Bonds, if the use of said money will leave in said Depreciation and Contingencies Fund for the making of emergency repairs or replacements less than the sum of Fifteen Thousand Dollars (\$15,000).

If at any time it shall be necessary to use moneys in the Reserve Fund or the Depreciation and Contingencies Fund for the purpose of paying principal of or interest or Administrative Fee on Bonds or Bonds payable from the Sinking Fund as to which there would otherwise be default, then the moneys so used shall be replaced from the Net Revenues first thereafter received, not hereinabove required to be used for current principal or interest requirements. If at any time there are sufficient moneys on deposit in the Reserve Fund and the Depreciation and Contingencies Fund to retire all Bonds payable from the Sinking Fund by exercising the redemption option provided by such Bonds or by purchase on the open market, the Issuer may utilize such funds for such purpose.

All or any part of the moneys in the Reserve Fund and in the Depreciation and Contingencies Fund shall, at request of the Issuer, be invested in direct obligations of the United States of America maturing in five (5) years or less, in which event all income derived from such investments shall be added to the money in said respective funds, and such investments shall, to the extent at any time necessary, be liquidated and the proceeds thereof applied to the purpose for which the respective funds are herein provided.

All income derived from such investments shall be added to the money in said respective funds or to the Utilities System Fund, and such investments shall, to the extent at any time necessary, be liquidated and the proceeds thereof applied to the purpose for which the respective funds are herein created.

All moneys remaining in the Utilities System Fund on the 20th day of each month after making the payments described in (a), (b), (c), and (d) above for the current month and for prior months during which the required payments may not have been made, shall be considered as surplus. Such surplus may be used by the Issuer for the purpose of retiring Bonds in advance of their maturities, either by purchase of bonds then outstanding at prices not greater than the redemption prices or by retiring such Bonds at the prices and in the manner set forth in the proceedings providing for their issuance, or for any other lawful purpose.

**ARTICLE 4)**  
**COVENANTS AS TO OPERATION OF THE SYSTEM**

Section a). Rates and Charges. Except as provided herein, nothing in this Authorizing Ordinance or in the Bonds shall be construed to prevent the Issuer from altering, amending or repealing from time to time as may be necessary any resolution or ordinance setting up and establishing a schedule or schedules of rates and charges for the services and facilities to be rendered by the System, said alterations, amendments or repeals to be conditioned upon the continued preservation of the rights of the Owners with respect to the Revenues, not alone for the payment of the principal of and interest on the Bonds, but to give assurance and insure that the Revenues shall be sufficient at all times to meet and fulfill the other provisions stated and specified in Sections 3.3 and 3.4 of this Authorizing Ordinance. It is understood and agreed, however, that the Issuer shall fix and maintain and collect rates and charges for the services and facilities to be rendered by the System, irrespective of the user thereof, and that no free service shall be furnished to any Person or even to the Issuer itself, and that all water and electricity shall be metered; provided, however, that the Issuer shall not be required to meter electricity used by the Issuer for street lighting purposes, nor shall the Issuer be required to meter water used for firefighting purposes through its fire hydrants, but the Issuer hereby agrees to pay from its general revenues a minimum annual rental of \$25.00 per year for each fire hydrant connected to the System and available for firefighting purposes and also a minimum of 24 per KWH of electricity used for street lighting, such consumption of electricity to be computed by multiplying the wattage of the street lights by 4,000 hours per year, the estimated average operating time of such lights. It is further understood and agreed that the schedule of rates, fees, rents, or other charges being charged as of the date of the adoption of this resolution for services and facilities rendered by the System shall remain in effect until changed in compliance with the provisions of Section 4.1 of this Ordinance.

The Issuer agrees that all charges owed by any Person for electric, water and sewer services rendered by the System shall be billed and collected as a unit; that the failure of any Person to pay the charges for any service rendered by the System within fifteen (15) days of the date on which it is due shall cause such charge to become delinquent; that if such delinquent charge, with interest and penalties accrued thereon, is not paid within ten (10) days from the date on which it became delinquent, the Issuer will shut off water and electric services to the affected premises; and that the Issuer and the Governing Authority and its officials, agents and employees will do all things necessary and will take advantage of all remedies afforded by law to collect and enforce the prompt payment of all charges made for services rendered by the System. All delinquent charges for utilities services shall on the date of delinquency have added thereto a penalty of ten percent (10%) of the amount of the charge, and the amount so due, including the penalty charge, shall, after thirty (30) days from the date of delinquency, bear interest at the rate of at least six per centum (6%) per annum. If services shall be discontinued as above provided, the customer shall, in addition to paying the delinquent charges, penalties and interest, pay, as a condition precedent to the resumption of service, a reasonable reconnection charge of not less than One and 50/100 Dollars (\$1.50).

Section b). Right to Pledge Revenues; Rank in Lien. In providing for the issuance of the Bonds, the Issuer does hereby represent and covenant that it is lawfully seized and possessed of the System, that it has a legal right to pledge the Revenues as herein provided, that the Bonds will have a lien and privilege on the Revenues equally with the Outstanding Parity Bonds, subject only to the prior payment of all reasonable and necessary expenses of operation and maintenance of the System

and that the Issuer will at all times maintain the System in first class repair and working order and condition.

Section c). Insurance. So long as any of the Bonds are outstanding and unpaid in principal or interest, the Issuer shall carry full coverage of insurance on the System at all times against those risks and in those amounts normally carried by privately owned public utility companies engaged in the operation of such utilities. Said policies of insurance shall be issued by a responsible insurance company or companies duly licensed to do business under the laws of the State. In case of loss, any insurance money received by the Issuer shall be used for the purpose of promptly repairing or replacing the property damaged or destroyed, or shall be deposited in the Depreciation and Contingencies Fund to supplement any other amounts required to be paid into said Fund.

Section d). Records and Accounts; Audit Reports. As long as any of the Bonds are outstanding and unpaid in principal or interest the Issuer shall maintain and keep proper books of records and accounts separate and apart from all other records and accounts in which shall be made full and correct entries of all transactions relating to the System. Not later than three (3) months after the close of each Fiscal Year the Issuer shall cause an audit of such books and accounts to be made by a recognized independent firm of certified public accountants, showing the receipts of and disbursements made for the account of the System. Such audit shall be available for inspection by the Owner of any of the Bonds and a copy of such audit shall be furnished promptly after its completion to the Department. Each such audit, in addition to whatever matters may be thought proper by the accountant to be included therein, shall include the following:

- (a) A statement in detail of the income and expenditures of the System for such Fiscal Year.
- (b) A balance sheet of the System as of the end of such Fiscal Year.
- (c) The accountant's comments regarding the manner in which the Issuer has carried out the requirements of this Authorizing Ordinance, and the accountant's recommendations for any changes or improvements in the operation of the System or the method of keeping the records relating thereto.
- (d) A list of the insurance policies in force at the end of the Fiscal Year, setting out as to each policy the amount of the policy, the risks covered, the name of the insurer and the expiration date of the policy.
- (e) The number of water, electric and sewer customers and the number of unmetered water and electric customers, if any.
- (f) An analysis of additions, replacements and improvements to the physical properties of the System.
- (g) A statement of all schedules of rates in effect during the Fiscal Year, the aggregate dollar amount billed for services rendered during such year and the average monthly billing per user.

All expenses incurred in the making of the audits required by this Section shall be regarded and paid as a maintenance and operating expense. The Issuer further agrees that the Paying Agent and the Owners of the Bonds shall have the right to discuss with the accountant making the audit the contents of the audit and to ask for such additional information as they may reasonably require. The Issuer further agrees to furnish to the Paying Agent and to the Owner of the Bonds, upon request therefor, a monthly statement itemized to show the income and expenses of the operation of the System and the number of connections for the preceding month. The Issuer further agrees that the Paying Agent and the Owners of the Bonds shall have at all reasonable times the right to inspect the System and the records, accounts and data of the Issuer relating thereto.

Section c). Rights of Bondholders; Appointment of Receiver in Event of Default. The Owners of the Bonds from time to time shall be entitled to exercise all rights and powers for which provision is made in the laws of the State. Any Owners of the Bonds or any trustee acting for such Owners in the manner hereinafter provided, may, either at law or in equity, by suit, action, mandamus or other proceeding in any court of competent jurisdiction, protect and enforce any and all rights under the laws of the State, or granted and contained in this Authorizing Ordinance, and may enforce and compel the performance of all duties required by this Authorizing Ordinance, or by any applicable statutes to be performed by the Issuer or by any agency, board or officer thereof, including the fixing, charging and collecting of rentals, fees or other charges for the use of the System, and in general to take any action necessary to most effectively protect the rights of the said Owners.

In the event that default shall be made in the payment of the interest on or the principal of or the Administrative Fee, if any, due with respect to any of the Bonds as the same shall become due, or in the making of the payments into the Sinking Fund or Reserve Fund or any other payments required to be made by this Authorizing Ordinance or the Loan Agreement, or in the event that the Issuer or any agency, board, officer, agent or employee thereof shall fail or refuse to comply with the provisions of this Authorizing Ordinance or the Loan Agreement or shall default in any covenant made herein and therein, and in the further event that any such default shall continue for a period of thirty (30) days after written notice, any Owner or any trustee appointed to represent such Owners as hereinafter provided shall be entitled as of right to the appointment of a receiver of the System in an appropriate judicial proceeding in a court of competent jurisdiction.

The receiver so appointed shall forthwith directly or by his agents and attorneys, enter into and upon and take possession of the System, and each and every part thereof, and shall hold, operate and maintain, manage and control the System, and each and every part thereof, and in the name of the Issuer shall exercise all the rights and powers of the Issuer with respect to the System as the Issuer itself might do. Such receiver shall collect and receive all fees, rentals and other revenues, maintain and operate the System in the manner provided in this Authorizing Ordinance and the Loan Agreement, and comply under the jurisdiction of the court appointing such receiver, with all of the provisions of this Authorizing Ordinance and the Loan Agreement.

Whenever all that is due upon the Bonds and interest thereon, and under any covenants of this Authorizing Ordinance for reserve, sinking or other funds, and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the Revenues of the System, shall have been paid and made good, and all defaults under the provisions of this Authorizing Ordinance shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the

entry of an order of the court to that effect. Upon any subsequent default, any Owner of Bonds, or any trustee appointed for Owners as hereinafter provided, shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver shall in the performance of the powers hereinabove conferred upon him be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court, and may be removed thereby and a successor receiver appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any property of any kind or character belonging or pertaining to the System but the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Owners and the curing and making good of any default under the provisions of this Authorizing Ordinance or the Loan Agreement, and the title to and the ownership of the System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage or otherwise dispose of any property of the System except with the consent of the Issuer and in such manner as the court shall direct. The Owner or Owners of Bonds in an aggregate principal amount of not less than twenty-five percent (25%) of Bonds issued under this Authorizing Ordinance then Outstanding may by a duly executed certificate appoint a trustee for the Owners with authority to represent such Owners in any legal proceedings for the enforcement and protection of the rights of such Owners. Such certificate shall be executed by such Owners, or by their duly authorized attorneys or representatives, and shall be filed in the office of the Clerk of the Issuer.

Until an event of default shall have occurred, the Issuer shall retain full possession and control of the System with full right to manage, operate and use the same and every part thereof with the rights appertaining thereto, and to collect and receive, and, subject to the provisions of this Authorizing Ordinance and the Loan Agreement, to take, use and enjoy and distribute the earnings, income, rent, issue and profits accruing on or derivable from the System.

Section f). Limitations on Sale, Lease or Other Disposition of Property. So long as any of the Bonds are outstanding and unpaid in principal or interest, the Issuer shall be bound and obligated not to sell, lease, encumber or in any manner dispose of the System or any substantial part thereof; provided, however, that this covenant shall not be construed to prevent the disposal by the Issuer of property which in its judgment has become worn out, unserviceable, unsuitable or unnecessary in the operation of the System, when other property of equal value or capacity is substituted therefor or the sale price thereof is deposited in the Depreciation and Contingencies Fund.

Section g). Prohibition Against Encumbrances. Except as hereinafter provided in Section 5.1 of this Authorizing Ordinance, the Issuer hereby covenants that it will not voluntarily create or cause to be created any debt, lien, pledge, mortgage, assignment, encumbrance or any other charge whatsoever having priority over or a parity with the lien of the Bonds and the interest thereon upon

the Revenues pledged as security therefor in this Authorizing Ordinance.

Section h). Competitive Franchises. So long as any of the Bonds are outstanding and unpaid in principal and interest, the Issuer obligates itself not to grant a franchise to any utility for operation within the boundaries of the Issuer which would render services or facilities similar to those of the System, and also obligates itself to oppose the granting of any such franchise by any other public board having jurisdiction over such matters. Further, the Issuer shall maintain its corporate identity and existence as long as any of the Bonds remain outstanding.

Section i). Sewer Charges and Connections. Acting in the exercise of its police powers, the Issuer shall take all action necessary to require every owner, tenant or occupant of each lot or parcel of land in the Issuer which abuts upon a street or other public way containing a sewer line and upon which lot or parcel a building shall have been constructed for residential, commercial or industrial use, to connect said building with the System and to cease to use any other method for the disposal of sewerage, sewerage waste or other polluting matter which can be handled by the System.

All such connections shall be made in accordance with the rules and regulations to be adopted from time to time by this Governing Authority, which rules and regulations may provide for an inspection charge to assure the proper making of such connection.

In addition to all other rights and remedies available to be used for the enforcement of sewerage charges and for the compelling of the making of sewerage connections as aforesaid, the Issuer shall exercise and enforce promptly and efficiently all rights given it under the laws of the State for the enforcement and collection of such charges, and particularly those rights and remedies given it by Sub-Part C, Part II, Chapter 9, Title 33 of the Louisiana Revised Statutes of 1950, as amended.

Section j). Fidelity Bonds. So long as any of the Bonds are outstanding and unpaid, the Issuer, in operating the System, shall require all of its officers and employees who may be in a position of authority or in possession of money derived from the operation of the System, to obtain or be covered by a blanket fidelity or faithful performance bond, or independent fidelity bonds written by a responsible indemnity company in amounts adequate to protect the Issuer from loss.

Section k). Engineer. It is recognized and understood that in purchasing and accepting delivery of the Bonds, the Department has relied and the Owners of the Bonds from time to time will rely, upon representations made by the Issuer that its System will be economically and efficiently operated so that both the Issuer and the Owners of the Bonds may benefit through the production of maximum Revenues. To this end, the Issuer covenants and agrees that so long as any of the Outstanding Parity Bonds or the Bonds remain outstanding, it will retain an Engineer for the purpose of providing for the Issuer proper engineering counsel in the operation of its System. Such Engineer shall be retained on an annual basis at such reasonable compensation as may be fixed by this Governing Authority, and the payment of such compensation shall be considered to be one of the costs of maintaining and operating the System. Any Engineer appointed under the provisions of this Section may be replaced at any time by another Engineer appointed or retained by the Issuer, provided no such Engineer may be replaced until a resolution setting forth the just cause for such action, adopted by the Governing Authority, shall have been filed with the Clerk of the Council, the original purchasers of each issue of Outstanding Parity Bonds, the Department, and any subsequent Owners of the Bonds and with the Engineer. Thereafter a public hearing thereon shall be conducted

by the Governing Authority at which all interested persons are given an opportunity to be heard, after which the Issuer may make such replacement if so directed by at least a two-thirds vote of the membership taken at a regular meeting. If the Engineer is ever replaced as above provided, the successor Engineer shall be selected with special reference to his knowledge and experience in the construction and operation of publicly owned utility properties and shall be retained under contract at such reasonable compensation as may from time to time be agreed upon by the Governing Authority and the Engineer.

In the event this Governing Authority shall fail to retain a Engineer in accordance with this Section and should fail to do so after thirty (30) days notice of any bondholders calling attention to such failure, then upon the petition of the Owners of twenty-five percent (25%) of the aggregate principal amount of the Bonds then Outstanding, this Governing Authority shall select and retain such Engineer as is named in the petition of said Owners.

The Engineer shall annually inspect the System and the records relating thereto, and within three (3) months after the close of each Fiscal Year he shall prepare a written report upon the operations of the System during the preceding year, the condition and maintenance of the properties thereof, the efficiency of the management of the property, the proper and adequate keeping of books of account and record, the adherence to budget and budgetary control provisions, the adherence to all the provisions of this Authorizing Ordinance, and any other things having a bearing upon the efficient and profitable operation of the System as the Engineer feels should be contained in the report. The Engineer shall also submit in said report such recommendations for maintenance, insurance, operation, repairs, renewals, replacements, extensions, betterments and improvements as he may deem proper. Copies of such report shall be placed on file with the Clerk of the Council, and said report shall be furnished to the Department upon request.

It shall also be the duty of the Engineer to advise the Issuer as to any changes or revisions of rates, fees, rents or other charges for services and facilities rendered or furnished by the System, and the Issuer agrees to make no revisions therein which are not approved by the Engineer, except that changes or revisions of such rates, fees, rents or other charges may be made without the approval of the Engineer if the Governing Authority by resolution adopted by two-thirds of its members shall order such changes or revisions and call a public hearing to be held therein within thirty (30) days from the adoption of the resolution. Not less than ten (10) days' notice of such hearing shall be given to all interested parties, including the Engineer and the Department; it being the intention hereof to insure that adequate information shall be available and made known to the Governing Authority in connection with any change or revision of any rate, rent, fee or charge of the System.

Sixty (60) days before the Close of each Fiscal Year, the Issuer shall, in conjunction with the Engineer, prepare a budget for the ensuing year's operation of the System. No expenditure for the operation, maintenance and repairs of the System in excess of the amounts stated in the budget shall be made in any year unless authorized by the Governing Authority, who shall first seek the advice of the Engineer.

## **ARTICLE 5) PARITY BONDS**

Section a). Issuance of Parity Obligations; Parity Requirements. The Bonds shall enjoy complete parity of lien on the Revenues despite the fact that any of the Bonds may be delivered at an

earlier date than any other of the Bonds or that the purchase price of the Bonds is paid in installments. The Issuer shall issue no other bonds or obligations of any kind or nature payable from or enjoying a lien on the Revenues having priority over or parity with the Bonds herein authorized; provided, however, that Parity Obligations may hereafter be issued on a parity with the Bonds herein authorized under the following conditions:

- (a) The Bonds or any part thereof may be refunded with the consent of the Owners thereof (except that as to Bonds which are then subject to redemption and have been properly called for redemption, such consent shall not be necessary) and the refunding bonds so issued shall enjoy complete equality of lien with the portion of the Bonds which is not refunded, if there be any, and the refunding bonds shall continue to enjoy whatever priority of lien over subsequent issues may have been enjoyed by the Bonds refunded, provided, however, that if only a portion of the Bonds outstanding is so refunded and if the refunding bonds require total principal and interest payments during any bond year (ending December 1) in excess of the principal and interest (including any Administrative Fee) which would have been required in such sinking fund year to pay the Bonds refunded thereby, then such Bonds may not be refunded without the consent of the Owners of the unrefunded portion of the Bonds issued hereunder (provided such consent shall not be required if such refunding bonds meet the requirements set forth in clause 2 of this Section 5.1).
- (b) Parity Obligations may also be issued on a parity with the Bonds if all of the following conditions are met:
  - (i) The average annual Net Revenues for the three (3) completed Fiscal Years immediately preceding the issuance of the Parity Obligations must have been not less than one and three-tenths (1.3) times the highest combined principal and interest requirements (including any Administrative Fee) for any succeeding fiscal year period on all Bonds then Outstanding, including any Parity Obligations theretofore issued and then outstanding and any other bonds or obligations whatsoever then outstanding which are payable from the Revenues (but not including Bonds which have been refunded or provisions otherwise made for their full and complete payment and redemption), and the Parity Obligations so proposed to be issued. Although not expressly provided for in the Outstanding Parity Bond Resolutions, for the purpose of this calculation, principal maturities shall include mandatory redemption of term bonds and there shall be subtracted from term bond maturities the amount of such mandatory redemption so that the calculation shall be made assuming retirement of the term bonds according to the schedule of mandatory redemption. In the event variable rate bonds are issued, it shall be assumed for the purpose of this calculation that the additional bonds shall bear interest at the maximum or ceiling rate that such additional bonds may bear. After the Series 1993A Bonds have been retired, in making the calculation required by this subparagraph 2(a), if the Issuer has adopted higher rates for services rendered by the System on or before the date of issuance of the Parity Obligations, the calculation of average annual Net Revenues for the previous three completed Fiscal Years may be made assuming such rates had been in effect during such period.

(ii) The payments required to be made into the various funds provided in Section 3.4 hereof must have been made in full.

(iii) There must be sufficient money in the Reserve Fund to pay all principal and interest (including any Administrative Fee) on the Bonds and any other Parity Obligations which may have been issued hereunder becoming due during the twelve (12) months period next succeeding the issuance of the additional bonds.

(iv) The existence of the facts required by paragraphs (a), (b) and (c) above must be determined and certified to by an independent firm of certified public accountants who have previously audited the books of the Issuer or by such successors as may have been employed for that purpose. In making that determination in the event of an adjustment of Net Revenues due to a rate increase as set forth in paragraph (a), there may be a reliance upon the calculation of the adjustment of Net Revenues as a result of increased rates as prepared by a recognized engineer or firm of engineers employed for such purpose.

(v) The Parity Obligations must be payable as to principal on December 1st of each year in which the principal falls due and payable as to interest on June 1st and December 1st of each year.

(vi) The proceeds of the Parity Obligations must be used solely for the making of improvements, extensions, renewals, replacements or repairs to the System.

#### ARTICLE 6) MISCELLANEOUS

Section a). Mutilated, Destroyed, Stolen or Lost Bonds. If (1) any mutilated Bond is surrendered to the Paying Agent, or the Issuer and the Paying Agent receive evidence to their satisfaction of the destruction, loss, or theft of any Bond, and (2) there is delivered to the Issuer and the Paying Agent such security or indemnity as may be required by them to save each of them harmless, then, in the absence of notice to the Issuer or the Paying Agent that such Bond has been acquired by a bona fide purchaser, the Issuer shall execute and upon its request the Paying Agent shall register and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost, or stolen Bond, a new Bond of the same maturity and of like tenor and principal amount, bearing a number not contemporaneously outstanding. In case any such mutilated, destroyed, lost, or stolen Bond has become or is about to become due and payable, the Issuer in its discretion may, instead of issuing a new Bond, pay such Bond. Upon the issuance of any new Bond under this Section, the Issuer may require the payment by the Owner of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) connected therewith. Every new Bond issued pursuant to this Section in lieu of any mutilated, destroyed, lost, or stolen Bond shall constitute a replacement of the prior obligation of the Issuer, whether or not the mutilated, destroyed, lost, or stolen Bond shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Authorizing Ordinance equally and ratably with all other Outstanding Bonds, and shall carry on the face thereon the legend required by La. R.S. 39:971. The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost or stolen Bonds.

Section b). Contract; Modification or Amendment of Authorizing Ordinance. The provisions of this Authorizing Ordinance shall constitute a contract between the Issuer and any Owner or Owners from time to time of the Bonds, and any such owner or owners may at law or in equity, by suit, action, mandamus or other proceedings, enforce and compel the performance of all duties required to be performed by this Governing Authority as a result of issuing the Bonds.

No material modification or amendment of this Authorizing Ordinance, or of any ordinance amendatory hereof or supplemental hereto, may be made without the consent in writing of the Owners of two-thirds (2/3) of the aggregate principal amount of the Bonds then outstanding; provided, however, that no such modification or amendment shall permit a sale, lease or encumbrance of the System, or a change in the maturity of such Bonds or the redemption provisions thereof, or a reduction in the rate of interest thereon, or in the amount of the principal obligation thereof, or affecting the unconditional promise of the Issuer to pay the principal of and interest on the Bonds as the same shall become due from the Revenues, or change the requirements specified herein for the issuance of Parity Obligations under the provisions of this Authorizing Ordinance, or reduce the percentage of the Owners of the Bonds required to consent to any material modification or amendment of this Authorizing Ordinance, without the consent of the Owner or Owners of such Bonds.

Section c). Issuance of Bonds; Application of Proceeds. - All of the proceeds derived from the sale of the Bonds, except accrued interest, if any, which shall be paid in installments by the Department in the manner set forth in the Loan Agreement, shall be deposited by the Issuer in a Construction Fund (the AConstruction Fund@). The funds in the Construction Fund shall be used solely for the purpose of paying Costs of the Project, in the manner set forth in the Loan Agreement. Any accrued interest and premium received upon the sale of the Bonds shall be deposited in the sinking fund described in Section 3.4 hereof.

Section d). Registered Owners of Bonds. The Issuer, the Paying Agent, and any agent of either of them may treat the Owner in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of the principal (and redemption price) of and interest on such Bond and for all other purposes whatsoever, and to the extent permitted by law, neither the Issuer, the Paying Agent, nor any agent of either of them shall be affected by notice to the contrary.

Section e). Notices to Owners of Bonds. Wherever this Authorizing Ordinance provides for notice to Owners of Bonds of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to each Owner of such Bonds, at the address of such Owner as it appears in the Bond Register. In any case where notice to owners of Bonds is given by mail, neither the failure to mail such notice to any particular Owner of Bonds, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Bonds. Where this Authorizing Ordinance provides for notice in any manner, such notice may be waived in writing by the Owner entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Owners shall be filed with the Paying Agent, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section f). Cancellation of Bonds. All Bonds surrendered for payment, redemption, transfer, exchange or replacement, if surrendered to the Paying Agent, shall be promptly cancelled by it and, if surrendered to the Issuer, shall be delivered to the Paying Agent and, if not already cancelled, shall be promptly cancelled by the Paying Agent. The Issuer may at any time deliver to the Paying Agent for cancellation any Bonds previously registered and delivered which the Issuer may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly cancelled by the Paying Agent. All cancelled Bonds held by the Paying Agent shall be disposed of as directed in writing by the Issuer.

Section g). Deposit of Funds and Security Therefor. All of the Revenues shall be deposited daily as provided in Section 3.4 hereof in the Utilities System Fund. The Sinking Fund, the Reserve Fund and the Depreciation and Contingencies Fund shall be held by the depository banks as special trust funds for the purposes provided in this Authorizing Ordinance, and all other funds shall be held by the designated banks as special deposits for the purposes set forth in this Authorizing Ordinance, and subject to such reasonable instructions as this Governing Authority may give in writing to the banks holding such funds. The Owners are hereby granted a lien on all funds established pursuant to the requirements of this Authorizing Ordinance until applied in the manner herein provided. The moneys on deposit in all of the funds herein required shall at all times be secured to the full extent thereof by the banks or trust companies holding such funds by direct obligations of the United States of America or the State having a market value not less than the amount of moneys then on deposit in said funds.

Section h). Severability; Application of Subsequently Enacted Laws. In case any one or more of the provisions of this Authorizing Ordinance or of the Bonds shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Authorizing Ordinance or of the Bonds, but this Authorizing Ordinance and the Bonds shall be construed and enforced as if such illegal or invalid provisions had not been contained therein. Any constitutional or statutory provision enacted after the date of this Authorizing Ordinance which validates or makes legal any provisions of this Authorizing Ordinance and/or the Bonds which would not otherwise be valid or legal, shall be deemed to apply to this Authorizing Ordinance and to the Bonds.

Section i). Fulfillment of Issuer's Obligations; Defeasance. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid to the Owners, the principal (and redemption price) of and interest on the Bonds, at the times and in the manner stipulated in this Authorizing Ordinance, then the pledge of the money, securities, and funds pledged under this Authorizing Ordinance and all covenants, agreements and other obligations of the Issuer to the Owners of Bonds shall thereupon cease, terminate, and become void and be discharged and satisfied, and the Paying Agent shall pay over or deliver all money held by it under this Authorizing Ordinance to the Issuer. Bonds or interest installments shall be deemed to have been paid within the meaning and with the effect expressed above in this Section if the Bonds are defeased in the manner provided by Chapter 14, Title 39 of the Louisiana Revised Statutes of 1950, as amended, subject to any applicable restrictions contained in the Loan Agreement.

Section j). Paying Agent. The Issuer will at all times maintain a Paying Agent meeting

the qualifications herein described for the performance of the duties hereunder. The initial Paying Agent pursuant to this Authorizing Ordinance is the Clerk of the Council. This Governing Authority reserves the right to appoint a successor Paying Agent by (1) filing with the person then performing such function a certified copy of a resolution appointing a successor and (2) causing notice to be given to each Owner. Every successor Paying Agent shall at all times be a corporation organized and doing business under the laws of the United States of America or of any State, authorized under such laws to exercise trust powers, and subject to supervision or examination by Federal or State authority. In appointing a successor Paying Agent, this Governing Authority will authorize the Executive Officers to execute an appropriate agreement with the successor Paying Agent for and on behalf of the Issuer in such form as may be satisfactory to the Executive Officers, setting forth the duties and obligations of the successor Paying Agent.

Section k). Loan Agreement and Commitment Agreement. This Governing Authority recognizes that the Bonds will be sold to the Department pursuant to its Drinking Water Revolving Loan Fund Program. In connection with this sale, the Issuer and the Department will enter into a Loan and Pledge Agreement and Supplemental Loan and Pledge Agreement presented by the Department to the Issuer pertaining to the Bonds and the Project, which Loan Agreement will be in substantially the form on file with the Clerk of the Council. The Executive Officers are hereby authorized to execute such Loan Agreement on behalf of and under the seal of the Issuer, in substantially the form on file with the Clerk of the Council, with such changes, additions and deletions as shall in the sole opinion of the Executive Officers, upon advice of counsel, be deemed appropriate under the circumstances. So long as the Department owns any portion of the Bonds, then to the extent that any provision of this Ordinance is inconsistent with or contrary to the Loan Agreement, the applicable provision of the Loan Agreement shall control. As shall be provided in the Loan Agreement, the Issuer shall comply with certain provisions of the Loan Agreement, as specified therein, regardless of whether or not the Department is the Owner and regardless of any prepayment of defeasance of the Bonds prior to their final stated maturity.

With the advice of bond counsel, the Executive Officers are further authorized and directed to execute on behalf of the Issuer a Commitment Agreement by and between the Department and the Issuer which the Department may require as a prerequisite to the execution of the Loan Agreement, which Commitment Agreement shall be substantially in the form on file with the Clerk of the Council.

Section l). Publication of Authorizing Ordinance; Peremption. A copy of this Authorizing Ordinance shall be published immediately after its adoption in one issue of the official journal of the Issuer. For a period of thirty (30) days after the date of such publication any person in interest shall have the right to contest the legality of this Authorizing Ordinance, the Bonds to be issued pursuant hereto and the security for such Bonds. After the expiration of said thirty (30) day period, no one shall have any right of action to contest the validity of the Bonds, the provisions of this Authorizing Ordinance or the security for the Bonds, for any cause whatsoever, and the Bonds shall thereafter be conclusively presumed to be legal and no court shall thereafter have authority to inquire into such matters.

Section m). Recordation of Authorizing Ordinance. A certified copy of this Authorizing Ordinance shall be filed and recorded in the Mortgage Records of the Parish of Natchitoches, Louisiana, as soon as possible.

Section n). Section Headings. The headings of the various sections hercof are inserted for convenience of reference only and shall not control or affect the meaning or construction of any of the provisions hercof.

Section o). Continuing Disclosure. The Issuer will not be required to comply with the continuing disclosure requirements described in the Rule 15c2-12(b) of the Securities and Exchange Commission [17 CFR §240.15c2-12(b)], because:

(a) the Bonds are not being purchased by a broker, dealer or municipal securities dealer acting as an underwriter in a primary offering of municipal securities, and

(b) the Bonds are being sold to only one financial institution (*i.e.*, no more than thirty-five persons), which (i) has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the prospective investment in the Bonds and (ii) is not purchasing the Bonds for more than one account or with a view to distributing the Bonds.

The Executive Officers are hereby empowered, authorized and directed to take any and all action and to execute and deliver any instrument, document or certificate necessary to effectuate the purposes of this Section.

Section p). Employment of Bond Counsel. Foley & Judell, L.L.P., Bond Counsel of New Orleans, Louisiana, is hereby requested to do and perform comprehensive legal and coordinate professional work with respect to the issuance of the Bonds. Said special Bond Counsel shall prepare and submit to this Governing Authority for adoption all of the proceedings incidental to the authorization, issuance, sale and delivery of the Bonds, shall counsel and advise this Governing Authority as to the issuance and sale of the Bonds, and shall furnish their opinion covering the legality of the issuance thereof. The fee of special Bond Counsel in connection with the issuance of the Bonds is hereby fixed at a sum not to exceed that permitted by the Attorney General's fee schedule for each issue or series of revenue bonds based on the principal amount of the Bonds actually issued, sold, delivered and paid for, plus "out-of-pocket" expenses; provided, however, that said fee shall be contingent upon the sale, issuance and delivery of the Bonds.

A certified copy of this ordinance shall be submitted to the Attorney General of the State of Louisiana for his written approval of said employment and of the fees herein designated as required by law.

This Ordinance having been submitted to a vote, the vote thereon was as follows:

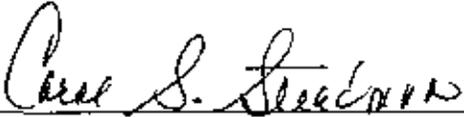
**YEAS: Morrow, Mims, McCain, Payne, Nielsen**

**NAYS: None**

**ABSENT: None**

**ABSTAIN: None**

And the Ordinance was declared adopted, on this, the 10<sup>th</sup> day of August, 2009.



Clerk of the Council



Mayor

## (FORM OF BOND)

THIS BOND HAS BEEN DESIGNATED AS A "BUILD AMERICA BOND" PURSUANT TO SECTION 54AA OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, AND INTEREST ON THIS BOND IS INCLUDED IN GROSS INCOME OF THE REGISTERED OWNER FOR FEDERAL INCOME TAX PURPOSES

UNITED STATES OF AMERICA  
STATE OF LOUISIANA  
PARISH OF NATCHITOCHE

CITY OF NATCHITOCHE, STATE OF LOUISIANA  
UTILITIES REVENUE BOND, SERIES 2009\_\_

<u>Number</u>	<u>Interest Rate:</u>	<u>Bond Date:</u>	<u>Principal Amount</u>
R-1	2.95%	_____, 2009	\$5,000,000

The City of Natchitoches, State of Louisiana (the "Issuer"), for value received, promises to pay (but only from the sources hereinafter described) to:

Registered Owner: Louisiana Department of Health & Hospitals,  
Office of Public Health (the "Department")  
c/o Office of Management & Finance  
ATTN: Cash Management  
P. O. Box 61979  
New Orleans, LA 70161-1979

or registered assigns, on the dates and in the amounts shown on Schedule B hereto, but solely from the revenues hereinafter specified, the Principal Amount set forth above (unless a lower Principal Amount applies, as set forth below), together with interest thereon from the Bond Date set forth above or the most recent interest payment date to which interest has been paid or duly provided for, at a rate of two and ninety-five hundredths percent (2.95%) per annum, said interest to be calculated on the basis of a 360-day year consisting of twelve 30-day months and payable semiannually on June 1 and December 1 of each year, commencing December 1, 2009 (each an "Interest Payment Date").

Interest falling due on this Bond on any Interest Payment Date shall be payable only on the purchase price which shall have been paid theretofore by the Department and shall accrue with respect to each purchase price installment only from the date of payment of such installment. If the Department is the registered owner of this Bond, the Issuer will additionally pay an administrative fee to the Department at the annual rate of one-half of one percent (0.5%) (the "Administrative Fee") on the outstanding principal amount of the Bond, payable on each Interest Payment Date. In the event (i) the Department owns this Bond or the Department has pledged or assigned this Bond in connection with its Drinking Water Revolving Loan Fund Program, as

defined in the Bond Ordinance and (ii) the Administrative Fee payable to the Department is declared illegal or unenforceable by a court or an administrative body of competent jurisdiction, the interest rate borne by this Bond shall be increased by one-half of one percent (0.5%) per annum, effective as of the date declared to be the date from which the Administrative Fee is no longer owed because of such illegality or unenforceability.

The principal of this Bond shall mature in annual installments, payable on each principal payment date in the amounts set forth on Schedule B attached hereto, which Schedule assumes the full Principal Amount set forth above will be disbursed to the Issuer by the Department as the purchase price of this Bond. Should the aggregate purchase price of this Bond be less than the full Principal Amount set forth above, then the principal amount hereof will be reduced and Schedule B shall be adjusted as provided in the Bond Ordinance (herein defined).

The principal installments of this Bond shall be subject to prepayment at the option of the Issuer at any time, in whole or in part, and if in part, in inverse order of maturity, at a prepayment price of par plus accrued interest and accrued Administrative Fee, if any, to the prepayment date.

The purchase price of this Bond shall be paid to the Issuer in installments, and interest on this Bond shall accrue only on the amount of the purchase price which shall have been paid to the Issuer. The amount and payment date of each purchase price installment shall be noted on Schedule A attached hereto. The principal and interest on this Bond are payable in the manner set forth in the Bond Ordinance.

This Bond represents the entire series of bonds of the Issuer designated "Utilities Revenue Bonds, Series 2009", aggregating in principal the sum of Five Million Dollars (\$5,000,000) (the "Bond"), said Bond having been issued by the Issuer pursuant to an Ordinance adopted by the governing authority of the Issuer on August 10, 2009 (the "Authorizing Ordinance") for the purpose of constructing and acquiring improvements and extensions to the Issuer's combined waterworks plant and system, electric power and light plant system, and sewer system including all appurtenant equipment, accessories and properties, both personal and real (the "System"), under the authority conferred by Part XIII, Chapter 4, Title 39 of the Louisiana Revised Statutes of 1950, as amended, and other constitutional and statutory authority, pursuant to all requirements therein specified.

Notwithstanding the above, should a portion of the Bonds be purchased by the Department using ARRA Funds, then the Executive Officers are authorized to issue the Bonds in two (2) series on a parity basis, with the Series 2009A Bonds to represent the principal amount of the Bonds purchased by the Department using ARRA Funds and the Series 2009B Bonds to represent the principal amount to be purchased by the Department using non-ARRA Funds. Should ARRA Funds be available, each series of Bonds shall be issued initially in the form of a single fully registered bond, to be numbered AR-1 and BR-1, respectively, with the annual principal amounts of each Bond to be such that there will be approximately annual level debt service falling due. The Executive Officers, at their discretion, may, at delivery, further separate the Series 2009B Bonds into two (2) Bonds, one designated BR-1 which represents Project costs eligible for ARRA funding but actually purchased by the Department using non-ARRA Funds and the other designated BR-2 which will be purchased by the Department using non-ARRA funds.

This Bond and the issue of which it forms a part is issued on a complete parity with the Issuer's outstanding Utilities Revenue Bonds, Series 1993A, Series 1999, and Series 2003A and the Issuer's outstanding Utilities Revenue Refunding Bonds, Series 2003B, issued by the Issuer pursuant to ordinances adopted by the governing authority thereof January 11, 1993, May 24, 1999 and August 20, 2003 on (the "Parity Bond Ordinances"). It is certified that the Issuer, in issuing this Bond, has complied with all the terms and conditions set forth in the Parity Bond Ordinances with respect to authorizing the issuance of bonds on a parity with the Outstanding Parity Bonds.

This Bond and the issue of which it forms a part, equally with the Outstanding Parity Bonds, are payable as to both principal, interest and redemption premium, if any, solely from the income and revenues to be derived from the operation of the System, after provisions have been made for payment therefrom of the reasonable and necessary expenses of operating and maintaining the System. This Bond constitutes a borrowing solely upon the credit of said revenues of the System and does not constitute an indebtedness or pledge of the general credit of the Issuer within the meaning of any constitutional or statutory limitation of indebtedness. The governing authority of the Issuer has covenanted and agreed and does hereby covenant and agree to fix, establish and maintain such rates and collect such fees, rents or other charges for the services and facilities furnished by the System as shall be sufficient to provide for the payment of all reasonable and necessary expenses of operation and maintenance of the System, to provide for the payment of the interest on and principal of all bonds or other obligations payable therefrom as and when the same shall become due and payable, and the Issuer has also covenanted and agreed and does hereby covenant and agree to provide for the creation of a debt service reserve and a reserve to care for extensions, additions, improvements, renewals and replacements necessary to properly operate the System. For a more complete statement of the revenues from which and conditions under which this Bond is payable, the general covenants and provisions pursuant to which this Bond is issued, and provisions permitting the issuance of Parity Obligations, as defined in the Authorizing Ordinance, under certain circumstances, reference is hereby made to the Authorizing Ordinance.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Authorizing Ordinance until the certificate of registration hereon shall have been signed by the Paying Agent.

It is certified that this Bond is authorized by and is issued in conformity with the requirements of the Constitution and statutes of the State of Louisiana. It is further certified, recited and declared that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this Bond and the issue of which it forms a part necessary to constitute the same legal, binding and valid obligations of the Issuer have existed, have happened and have been performed in due time, form and manner as required by law, and that the indebtedness of the Issuer, including this Bond and the issue of which it forms a part, does not exceed any limitation prescribed by the Constitution and statutes of the State of Louisiana, and that the Bond shall not be invalid for any irregularity or defect in the proceedings for the issuance and sale thereof.

**IN WITNESS WHEREOF**, the City Council of the City of Natchitoches, State of Louisiana, acting as the governing authority thereof, has caused this Bond to be executed in the name of the Issuer by the signatures of the Mayor and Clerk of the Council of the Issuer, and the Issuer's corporate seal to be impressed or imprinted hereon.

**CITY OF NATCHITOCHEs, STATE OF LOUISIANA**

Charles S. Stearns  
Clerk

Wayne McCallan  
Mayor

(SEAL)

\* \* \* \* \*

**(FORM OF PAYING AGENT'S CERTIFICATE OF REGISTRATION)**

This Bond is one of the Bonds referred to in the within-mentioned Authorizing Ordinance.

Date of Registration: \_\_\_\_\_

Director of Finance,  
City of Natchitoches,  
as initial Paying Agent

\* \* \* \* \*

**(FORM OF ASSIGNMENT)**

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_

Please Insert Social Security  
or other Identifying Number of Assignee

[Empty box for Social Security or other Identifying Number of Assignee]

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

\_\_\_\_\_ attorney or agent to transfer the within

Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

**NOTICE:** The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

**SCHEDULE A**  
**SCHEDULE OF PURCHASE PRICE PAYMENTS**  
**UTILITIES REVENUE BONDS, SERIES 2009**  
**OF THE CITY OF NATCHITOCHEs,**  
**STATE OF LOUISIANA**

	Date of Payment	Amount of Payment	Pursuant to Requisition No.	Cumulative Outstanding Principal Amount
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				
21.				
22.				
23.				
24.				
25.				

**SCHEDULE B**  
**SCHEDULE OF PRINCIPAL PREPAYMENTS**  
**UTILITIES REVENUE BONDS, SERIES 2009**  
**OF THE CITY OF NATCHITOCHE, STATE OF LOUISIANA**

No.	MATURITY DATE (DEC-1)	PRINCIPAL INSTALLMENT AMOUNT
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		

**SCHEDULE C**  
**SCHEDULE OF PRINCIPAL PREPAYMENTS**  
**UTILITIES REVENUE BOND, SERIES 2009**  
**OF THE CITY OF NATCHITOCHEES**  
**STATE OF LOUISIANA**

Prepayment Date	Prepayment Amount	Remaining Balance Due

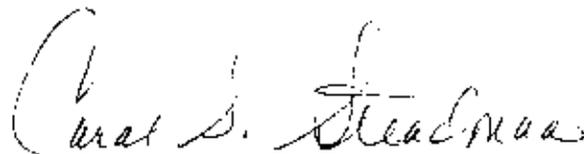
**STATE OF LOUISIANA**

**PARISH OF NATCHITOCHE**

I, the undersigned Clerk of the Council City of Natchitoches, State of Louisiana, do hereby certify that the foregoing pages constitute a true and correct copy of an Ordinance adopted on August 10, 2009, by the City Council of said City, authorizing the city of Natchitoches, State of Louisiana, to borrow not exceeding Five Million Dollars (\$5,000,000) of utilities revenue bonds, Series 2009, for the purpose of paying the cost of constructing and acquiring improvements and extensions to its combined waterworks plant and system, electric power and light plant and system, and sewer system of said city; authorizing the issuance of the city's utilities revenue bonds, Series 2009, to evidence said debt; authorizing the execution of a loan and pledge agreement with the Louisiana Department of Health and Hospitals; providing for the sale and delivery of said bonds to the Louisiana Department of Health and Hospitals; prescribing the form, fixing the details and providing for the payment of principal of and interest on such bonds and entering into certain covenants and agreements in connection with the security and payment of said bonds; and providing for other matters in connection

**IN FAITH WHEREOF**, witness my official signature and the impress of the official seal of said City at Natchitoches, Louisiana, on this, the 10th day of May, 2009.

(SEAL)



Clerk of the Council









Louisiana State Bond Commission  
 Financial Information-Bond Issuance Costs  
 Attachment "C"  
 (Line 19 of Application)

To be Completed by the SBC \_\_\_\_\_  
 SBC Application # \_\_\_\_\_ SBC Approval Date \_\_\_\_\_

	TO BE COMPLETED WITH THE APPLICATION			TO BE COMPLETED WITH THE POST CLOSING REPORTING FORM			Ref
	1	2	3 (1+2)	4	5	6 (3-4-5)	
	Estimated Costs	Estimated Costs	Total Costs	Actual Costs	Actual Costs	(Over) Under Variance	(Over) Under % Var
	Fees	Expenses	Total	Fees	Expenses	Variance	% Var
**Is cost paid from bond proceeds							
Firm / Vendor Name							
1. Bond Issuance Costs							
A. Legal fees							
1 Issuer counsel			0			0	0.0%
2 Bond counsel	Foley & Judell, L.L.P.	3,000	40,275			40,275	100.0%
3 Underwriter counsel			0			0	0.0%
4 Underwriter co-counsel			0			0	0.0%
5 Preparation of Blue Sky Memo	N/A		0			0	0.0%
6 Preparation of Official Statements			0			0	0.0%
7 Tax counsel	N/A		0			0	0.0%
8 Trustee counsel	N/A		0			0	0.0%
9 Escrow trustee counsel	N/A		0			0	0.0%
10 Other (Description)							
DHH Counsel	Adams & Reese	1,000	15,243			15,243	100.0%
			0			0	0.0%
			0			0	0.0%
Total legal fees		4,000	55,518	0	0	55,518	100.0%
Page 1 of 4							
B. Underwriting costs							
1 Sales commission			0			0	0.0%
2 Management fees			0			0	0.0%
3 Takedown			0			0	0.0%
4 MSRP / CUSIP / PSA			0			0	0.0%
5 Day loan			0			0	0.0%
6 Placement fee			0			0	0.0%
7 Other (Description)			0			0	0.0%
			0			0	0.0%
			0			0	0.0%
Total underwriting costs		0	0	0	0	0	0.0%

Louisiana State Bond Commission  
 Financial Information-Bond Issuance Costs  
 Attachment "C"  
 (Line 19 of Application)

To be Completed by the SBC \_\_\_\_\_  
 SBC Application # \_\_\_\_\_ SBC Approval Date \_\_\_\_\_

	TO BE COMPLETED WITH THE APPLICATION			TO BE COMPLETED WITH THE POST CLOSING REPORTING FORM				Ref			
	1 Estimated Costs	2 Expenses	3 Total Costs (1+2)	4 Actual Costs	5 Expenses	6 Variance (Over) Under (3-4-5)	7 % Var (Over) Under (6/3)				
**%s cost paid from bond proceeds											
	Firm / Vendor Name	Y/N	Fees	Expenses	Total Costs	Fees	Expenses	Variance	(Over) Under	% Var	Ref
C. Credit enhancement											
1	Bond insurance		0	0	0	0	0	0	0.0%		
2	Letter of credit		0	0	0	0	0	0	0.0%		
3	Other (Description)		0	0	0	0	0	0	0.0%		
Total credit enhancement			0	0	0	0	0	0	0.0%		
Page 2 of 4											
D. Other cost of issuance											
1	Publishing / advertising		approximate	2,500	2,500	0	0	2,500	100.0%		
2	Rating			0	0	0	0	0	0.0%		
3	Insurance			0	0	0	0	0	0.0%		
4	Bond commission fees			3,025	3,025	0	0	3,025	100.0%		
5	Issuer financing fees			0	0	0	0	0	0.0%		
6	Financial advisor fees			0	0	0	0	0	0.0%		
7	Trustee fees			0	0	0	0	0	0.0%		
8	Escrow trustee fees			0	0	0	0	0	0.0%		
9	Feasibility consultants		TBD	25,000	25,000	0	0	25,000	100.0%		
10	Other consultants			0	0	0	0	0	0.0%		
11	Accounting fees			0	0	0	0	0	0.0%		
12	Account verification fees			0	0	0	0	0	0.0%		
13	Escrow verification fees			0	0	0	0	0	0.0%		
14	Cash flow verification fees			0	0	0	0	0	0.0%		
15	Other (Description)			0	0	0	0	0	0.0%		
Paying Agent			TBD	1,500	1,500	0	0	1,500	100.0%		



Louisiana State Bond Commission  
 Financial Information-Bond Issuance Costs  
 Attachment "C"  
 (Line 19 of Application)

To be Completed by the SBC
SBC Application # _____ SBC Approval Date _____

	TO BE COMPLETED WITH THE APPLICATION			TO BE COMPLETED WITH THE POST CLOSING REPORTING FORM			Ref
	1	2	3	4	5	6	
	Estimated Costs			Actual Costs			
	(1 + 2)			(3 - 4 - 5)			(6 / 3)
	Fees	Expenses	Total Costs	Fees	Expenses	(Over) Under Variance	(Over) Under % Var
***Is cost paid from bond proceeds							
Firm / Vendor Name							
Y/N							
			0			0	0.0%
			0			0	0.0%
			0			0	0.0%
<b>Total Other Costs Associated with Bond Issue</b>	0	0	0	0	0	0	0.0%

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**DRINKING WATER  
REVOLVING LOAN FUND**

**COMMITMENT AGREEMENT**

dated as of October 1, 2009

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by and between

Louisiana Department of Health and Hospitals

and the

City of Natchitoches, State of Louisiana

---

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relating to the issuance of:

not exceeding \$5,000,000  
Utilities Revenue Bonds, Series 2009  
of the  
City of Natchitoches, State of Louisiana

Loan No. 1069007-1

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\* \* \* \* \*

## **COMMITMENT AGREEMENT**

This **COMMITMENT AGREEMENT**, which shall be dated for convenience as of October 1, 2009, by and between:

**LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS** (the "Department"), an executive department and agency of the State of Louisiana, appearing through its Office of Public Health, whose mailing address is P.O. Box 4489, Baton Rouge, Louisiana 70821-4489, appearing herein through M. Rony Francois, MD, MSPH, PhD, the Assistant Secretary for the Office of Public Health, duly authorized hereunto, pursuant to an executive order of the Secretary of the Department dated March 28, 2008, and

**THE CITY OF NATCHITOCHEs, STATE OF LOUISIANA** (the "City"), a political subdivision of the State of Louisiana, appearing herein through Wayne McCullen, its Mayor, and Carol Steadman, its Clerk, both duly authorized hereunto pursuant to an ordinance adopted by the governing authority of the City on August 10, 2009;

### **WITNESSETH:**

**WHEREAS**, the United States of America, pursuant to the Safe Drinking Water Act Amendments of 1996, specifically Section 300j-12 of Title 42 of the United States Code (the "Federal Act"), is authorized to make capitalization grants to states to be used for the purpose of providing loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in a State Revolving Fund, or to provide other financial assistance authorized under the Federal Act to community water systems and nonprofit non-community water systems, other than systems owned by Federal agencies; and

**WHEREAS**, in order to be eligible to receive such capitalization grants, a state must establish a drinking water revolving loan fund and each grant to a state under the Federal Act must be deposited in the State Revolving Fund established by the state; and

**WHEREAS**, the State of Louisiana (the "State"), pursuant to Chapter 32 of Title 40 of the Louisiana Revised Statutes of 1950, as amended (La. R.S. 40:2821, *et seq.*) (the "State Act"), has established a Drinking Water Revolving Loan Fund in the custody of the Department (the "State Revolving Fund") to be used for the purpose of providing financial assistance for the improvement of public drinking water systems in the State, as more fully described in Section 2825(A)(2) of the State Act, and has authorized the Department's Office of Public Health to establish assistance priorities and perform oversight and other related activities with respect to the State Revolving Fund; and

**WHEREAS**, the City has made application to the Department for a loan from the State Revolving Fund to finance a portion of the costs of constructing and acquiring improvements, extensions and replacements to its waterworks system, as are generally described in Exhibit A hereto (the "Project"); and

**WHEREAS**, the Department has approved the City's application for a loan from the State Revolving Fund to finance the costs of the Project; and

**WHEREAS**, in accordance with Section 300j-12(b) of the Federal Act, the Department has included a fundable list in its Intended Use Plan with respect to funds available in the State Revolving Fund which includes the Project; and

**WHEREAS**, the City has demonstrated to the satisfaction of the Department that it has the technical, managerial, and financial capability to ensure compliance with the requirements of Federal Act and that it is not in significant noncompliance with any requirement of a national primary drinking water regulation or variance; and

**WHEREAS**, indebtedness will be incurred by the City to represent the City's obligation to repay the loan from the State Revolving Fund, which indebtedness is referred to herein as the "Bonds";

**NOW, THEREFORE**, the Department and the City each agree to perform their respective obligations under this Commitment Agreement in accordance with the conditions, covenants and procedures set forth herein and in the exhibits attached hereto and made a part hereof as follows:

## **ARTICLE I**

### **DEFINITIONS AND INTERPRETATION**

**SECTION 1.01. Definitions.** In addition to the terms defined in the preambles hereto, the following terms used in this Commitment Agreement shall have the following meanings, unless the context clearly requires otherwise:

**"Authorizing Ordinance"** means the ordinance adopted by the governing authority of the City authorizing the issuance of the Bonds and authorizing the sale of the Bonds to the Department, as it may be supplemented, modified or amended from time to time in accordance with its terms.

**"Closing Date"** means the date on which the Bonds are delivered to the Department and the first installment of the purchase price therefor is paid by the Department to the City.

**"Loan"** means the loan to be made by the Department from the State Revolving Fund to the City pursuant to this Commitment Agreement and the Loan Agreement, the obligation to repay which Loan will be evidenced by the Bonds.

**"Loan Agreement"** means the Loan and Pledge Agreement to be entered into by the Department and the City in connection with the sale of the Bonds to the Department, including the exhibits attached thereto, as it may be supplemented, modified or amended from time to time in accordance with the terms thereof.

**"System"** means the City's revenue-producing water treatment and distribution system, as said system now exists, and as it may be hereafter improved, extended or supplemented while any of the Bonds remain outstanding, as more fully described in the Authorizing Ordinance.

**"Project"** means the water system improvements generally described in Exhibit A hereto, which are to be financed through the issuance of the Bonds.

## ARTICLE II

### THE LOAN AND THE BONDS

SECTION 2.01. Commitment to Make Loan. For the purpose of financing the costs of the Project and certain administrative costs relating to the issuance of the Bonds, as described generally in Exhibit A hereto, the Department commits to lend to the City, from legally available moneys in the State Revolving Fund, and under the terms and conditions specified in the Federal Act, the State Act, this Commitment Agreement, the Loan Agreement and the Bonds, the maximum sum of Five Million Dollars (\$5,000,000), provided all of the conditions and requirements hereinafter set forth are fulfilled to the satisfaction of the Department. The City's obligation to repay the loan shall be represented by the Bonds, which will be issued by the City pursuant to the Authorizing Ordinance and sold to the Department. In the Authorizing Ordinance, the City will establish a dedicated source of revenue (or demonstrate that there is adequate security) for the repayment of the Bonds.

The Loan shall be subject to and conditioned upon the availability of sums in the State Revolving Fund and the Department will not be required to make the Loan or make disbursements pursuant to the Loan except from sums legally available to the Department in the State Revolving Fund. This Commitment Agreement constitutes a binding commitment of the Department to lend the City moneys from the State Fund and is intended to satisfy the requirement of subsections (a)(1)(B) and (C) of the Federal Act as well as the requirements of 40 C.F.R §35.3550(e).

SECTION 2.02. Term of Commitment. (a) This Commitment Agreement must be accepted by the City no later than one month after the date of the execution hereof by the Department, otherwise it shall be null and void.

(b) Subject to the terms hereof and upon determination of the Department that the City, the Bonds and the Authorizing Ordinance comply with all applicable laws, regulations and program guidelines, the Department will accept delivery of and make the initial payment of the purchase price of the Bonds during a period ending up to six months after the date of the acceptance hereof by the City. If the Bonds are not delivered to the Department within said six months then this Commitment Agreement shall expire, unless extended by mutual consent of the Department and the City. This Commitment Agreement shall not be construed to preclude the City from obtaining financing for the Project, in whole or in part, from sources other than the State Fund.

SECTION 2.03. Disbursement of Loan; Excess Project Costs. The purchase price of the Bonds will be paid to the City by the Department in installments upon submission of

requisitions for qualified costs and expenses, in the manner and at the times to be set forth in the Loan Agreement.

SECTION 2.04. Payment of Additional Costs of the Project. In the event that Loan proceeds are not sufficient to pay the costs of the Project in full, the City shall nonetheless complete the Project and pay that portion of the costs as may be in excess of available Loan proceeds and shall not be entitled to any reimbursement therefor from the Department, except for the proceeds of any additional financing which may (subject to availability) be provided by the Department pursuant to application by the City.

SECTION 2.05. Principal and Interest Payments. Beginning on the Closing Date, the Bonds shall bear interest only, payable semi-annually in the manner provided in the Authorizing Ordinance, at the rate equal to two and ninety-five hundredths of one percent (2.95%) per annum, said interest to be calculated on the basis of a 360-day year consisting of twelve thirty-day months and payable on each interest payment date. The principal of the Bonds shall be payable in annual installments commencing not later than two (2) years after the Closing Date or one (1) year after the completion date of the Project, whichever occurs first, and will be fully amortized not later than twenty (20) years after the completion date of the Project, all in the manner to be set forth in the Loan Agreement.

Interest on the Bonds on any interest payment date prior to the completion date shall be payable only on the aggregate amount of the purchase price which shall have been paid theretofore and shall accrue with respect to each purchase price installment only from the date of payment of such installment.

The Bonds will be subject to prepayment or redemption prior to maturity in accordance with the terms of the Bonds.

SECTION 2.06. Administrative Fee. An annual administrative fee of one-half of one percent (0.50%) of the outstanding principal balance of the Loan will be payable to the Department in semi-annual installments on each interest payment date, in the manner set forth in the Bonds and the Loan Agreement.

SECTION 2.07. Loan Agreement. The Loan Agreement will contain detailed provisions concerning the terms and conditions of the Loan. Prior to the payment of the first installment of the purchase price of the Bonds, the City will be required to accept the terms and conditions of the Loan Agreement relating to the acquisition, construction, installation, maintenance and operation of the Project, the manner of payment of the purchase price of the Bonds, the use of funds from the State Revolving Fund by the City, the maintenance of financial records by the City, reporting requirements, user charges and compliance with state and federal laws and regulations, and the other provisions contained in the Loan Agreement.

SECTION 2.08. Audit Requirements. City acknowledges that by borrowing funds from the State Revolving Fund, it will be obligated to comply with the provisions of the Single Audit Act Amendments of 1996, and OMB Circular No. A-133, all as more further described in the Catalog of Federal Domestic Assistance (CFDC) Publication #66.468.

SECTION 2.09. Legal Fees. The City will pay all fees and expenses due to its own counsel and the fees and expenses of the Department's bond counsel, Adams and Reese, LLP, in connection with the Loan. Fees and expenses of legal counsel to the City and bond counsel to the Department may be treated as a cost of the Project and paid by the City from proceeds of the Loan or otherwise, provided that the fees of the City's counsel in connection with the issuance of the Bonds may not exceed the maximum fee permitted by the Louisiana Attorney General's fees schedule for fees of bond attorneys, and further provided that no fees of the City's attorneys which exceed budgeted eligible costs may be paid from proceeds of the Loan. Fees of the Department's bond counsel shall be as detailed in Exhibit B hereto.

### ARTICLE III

#### LOAN CLOSING REQUIREMENTS

SECTION 3.01. Conditions of the Department's Obligations. In addition to the provisions hereof and the Loan Agreement, the obligation of the Department to make the Loan and advance moneys under the Loan Agreement will be subject to the following additional conditions:

(a) the Bonds, the Authorizing Ordinance and the resolutions and/or ordinances imposing user charges with respect to the System, and authorizing the Loan Agreement, all will have been duly authorized, executed and delivered or adopted by the City, will be in full force and effect and will not have been amended, modified or supplemented except as may have been agreed to in writing by the Department as of the Closing Date;

(b) On the Closing Date the Department will receive:

(i) the executed opinions of counsel to the City and the Department in such form and containing such conclusions as may be reasonably required by the Department, addressed to the Department and the City;

(ii) a certificate or certificates, satisfactory in form and substance to the Department, from an authorized officer of the City, dated such Closing Date, to the effect that:

1) each of the representations of the City set forth herein and in the Loan Agreement is true, accurate and complete in all material respects as of such Closing date, and each of the agreements of the City set forth in the Loan Agreement to be complied with at or prior to such Closing Date has been complied with as of such date;

2) no litigation is pending, or to the knowledge of the authorized officer's knowledge, threatened, to restrain or enjoin the issuance, execution, sale or delivery of the Bonds or in any way contesting or affecting any authority for or the validity of the Bonds, the Loan Agreement, the Authorizing Ordinance or the creation, existence or powers of the City or the title of the present officers of the City, or any of them, to the respective offices and that none of the proceedings or authority for the issuance of the Bonds have been repealed, revoked or rescinded; and

- 3) the Bonds have been duly authorized, executed and delivered by the City, constitute valid and legally binding obligations of the City and are entitled to the security of and are secured by the Authorizing Ordinance which, together with the Loan Agreement have been duly authorized, executed and delivered by the City;
  - (iii) a non-arbitrage certificate or use of proceeds certificate executed by a duly authorized officer of the City in form and substance satisfactory to the Department and an opinion of bond counsel to the Department or other bond counsel acceptable to the Department;
  - (iv) executed originals of the Bonds and the Loan Agreement and a certified copy of the Authorizing Ordinance;
  - (v) executed originals of a Site Certificate, an Engineer's Certificate and a Certification Regarding Cross-Cutting Federal Authorities, in substantially the forms attached hereto as Exhibit C-1, Exhibit C-2 and Exhibit C-3, respectively; and
  - (vi) such additional certificates, instruments and other documents, dated as of the Closing Date or before, as the Department or its counsel reasonably require to evidence the truth and accuracy as of the Closing Date of the representations of the City herein contained and contained in the Loan Agreement and the due performance and satisfaction by the City at or prior to such time of all agreements to be performed and all conditions then to be satisfied by the City.
- (c) Subsequent to the City's acceptance of this Commitment Agreement and at or prior to the delivery date of the Bonds:
- (i) there will not have occurred any materially adverse change, or any development involving or materially adversely affecting the business, finances, functions or affairs of the City and the ability of the City to repay the Bonds;
  - (ii) the City will not have incurred any additional indebtedness payable from the same source of revenues as the Bonds not otherwise described herein, and the City will not have defaulted in the payment of any obligation whatsoever due by it; and
  - (iii) the United States will not be or become engaged in any major outbreak of armed hostilities which results in the declaration of a national emergency or there will not have occurred any national calamity so as to affect, in the sole judgment of the Department, the investment quality of the Bonds.

SECTION 3.02. Termination of Commitment. If the City is unable to satisfy the conditions to the obligations of the Department contained in this Commitment Agreement or if the obligations of the Department are terminated for any reason permitted by this Commitment Agreement, this Commitment Agreement will terminate.

## ARTICLE IV

### MISCELLANEOUS

SECTION 4.01. Assignment of Rights. This Commitment Agreement may not be assigned by the City.

In the Loan Agreement the City will approve and consent to any assignment, transfer or sale of the Loan Agreement and/or the Bonds by the Department including but not limited to any such assignment or transfer in connection with the issuance by or on behalf of the Department of bonds, notes or other debt obligations. The City will further approve and consent to any assignment or pledge by the Department of payments due from the City pursuant to the Loan Agreement and the Bonds as security or partial security for the payment of principal and interest on such bonds, notes or other debt obligations issued by or on behalf of the Department. The City will agree to cooperate with the Department in accomplishing any such assignment, including execution of any additional certificates or documents as may be reasonably required by the Department.

SECTION 4.02. Representations, Warranties and Agreements to Survive Delivery. All representations, warranties and agreements of the City and the Department contained herein will remain operative and in full force and effect regardless of any investigation made by or on behalf of the City or the Department and will survive the closing of the Loan, delivery of the Loan documents and the delivery of the Bonds to the Department, provided that in the event of a conflict with this Commitment Agreement, the Loan Agreement shall control.

SECTION 4.03. Severability. In the event any provision of this Commitment Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

SECTION 4.04. Amendments, Supplements and Modifications. This Commitment Agreement may be amended, supplemented or modified in writing by the consent of both the Department and the City.

SECTION 4.05. Execution in Counterparts. This Commitment Agreement may be executed in several counterparts, each of which shall be an original and all of which constitute but one and the same instrument.

SECTION 4.06. Applicable Law. This Commitment Agreement shall be governed by and construed in accordance with the laws of the State of Louisiana.

SECTION 4.07. Captions. The captions or headings in this Commitment Agreement are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions or sections of this Commitment Agreement.

IN WITNESS WHEREOF, the Department and the City have caused this Commitment Agreement to be executed and accepted on the respective dates set forth below, but dated for convenience of the parties as of the date first above-written.

Date of Offer by Louisiana Department of Health and Hospitals

LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS, Office of Public Health

\_\_\_\_\_, 20\_\_\_\_

By: \_\_\_\_\_  
M. Rony Francois, MD, MSPH, PhD  
Assistant Secretary, Office of Public Health

CITY OF NATCHITOCHEs, STATE OF LOUISIANA

Date of Acceptance of Offer by City

\_\_\_\_\_, 20\_\_\_\_

By: Wayne McAllen  
Mayor

ATTEST:

By: Carol S. Henderson  
Clerk

(SEAL)

**EXHIBIT A**  
**to Commitment Agreement**

**DESCRIPTION OF PROJECT**  
**AND PRELIMINARY PROJECT BUDGET**

**[TO BE FURNISHED BY City**

**EXHIBIT B**  
**to Commitment Agreement**

**FEES OF BOND COUNSEL TO THE DEPARTMENT**

1. At the option of the City, the Department's Bond Counsel, Adams and Reese LLP, will undertake to prepare all loan documentation, including the Loan Agreement, the Authorizing Ordinance, the Bonds, Non-Arbitrage Certifications and other documents and certificates, including the rendering of an opinion relating to the tax-exemption of interest on the Bonds, but not including any documentation relating to the acquisition, construction or installation of the Project. In such case, the fee of Department's Bond Counsel will not exceed the "Maximum Fee" shown in the applicable table below.

When the Bonds are in the form of general obligation bonds and the amount of the Bonds is:

<u>MORE THAN</u>	<u>BUT NOT MORE THAN</u>	<u>MAXIMUM FEE*</u>
Zero	\$405,000	1.5% of face amount of loan
\$405,000	\$810,000	\$6,075 plus 0.90% of all over \$405,000
\$810,000	\$1,350,000	\$9,720 plus 0.75% of all over \$810,000
\$1,350,000	\$2,700,000	\$13,770 plus 0.50% of all over \$1,350,000
\$2,700,000	\$6,750,000	\$20,520 plus 0.20% of all over \$2,700,000
\$6,750,000	\$13,500,000	\$28,620 plus 0.10% of all over \$6,750,000
\$13,500,000	--	\$35,370 plus 0.05% of all over \$13,500,000

When the Bonds are in any form other than general obligation bonds and the amount of the Bonds is:

<u>MORE THAN</u>	<u>BUT NOT MORE THAN</u>	<u>MAXIMUM FEE*</u>
Zero	\$1,350,000	1.5% of face amount of loan
\$1,350,000	\$2,700,000	\$20,250 plus 0.75% of all over \$1,350,000
\$2,700,000	\$6,750,000	\$30,375 plus 0.30% of all over \$2,700,000
\$6,750,000	\$13,500,000	\$42,525 plus 0.20% of all over \$6,750,000
\$13,500,000	--	\$56,025 plus 0.075% of all over \$13,500,000

\*Plus approved, reasonable and necessary travel and out-of-pocket expenses.

[EXHIBIT B CONTINUED ON NEXT PAGE]

2. Alternatively, the City may use its own counsel to prepare the Authorizing Ordinance, Bonds, Non-Arbitrage Certifications and opinion relating to the tax-exemption of interest on the Bonds. In such case, the Department's Bond Counsel, Adams and Reese, LLP, will be required to review all such documentation and the fee of Department's Bond Counsel will not exceed the "Maximum Fee" shown in the following table:

<u>MORE THAN</u>	<u>BUT NOT MORE THAN</u>	<u>MAXIMUM FEE*</u>
Zero	\$1,000,000	\$6,375
\$1,000,000	\$1,350,000	0.6375% of face amount of the Loan
\$1,350,000	\$2,700,000	\$8,606 plus 0.1875% of all over \$1,350,000
\$2,700,000	\$6,750,000	\$11,138 plus 0.1350% of all over 2,700,000
\$6,750,000	\$13,500,000	\$16,605 plus 0.06% of all over \$6,750,000
\$13,500,000	--	\$20,655 plus 0.0413% of all over \$13,500,000

\*Plus approved, reasonable and necessary travel and out-of-pocket expenses.

**EXHIBIT C-1  
to Commitment Agreement**

**FORM OF SITE CERTIFICATE**  
(five executed originals to be furnished at or prior to loan closing)

This is to certify that **THE CITY OF NATCHITOCHEs, STATE OF LOUISIANA** (the "City"), has acquired all property (sites, easements, rights-of-way or specific use permits) necessary for construction, operation, and maintenance of facilities described as

(insert proposed contract number and description):

in accordance with approved plans and specifications and designated as Project Number 1069007-1 by the State of Louisiana, Drinking Water Revolving Loan Fund program.

Any deeds or documents required to be recorded to protect the title(s) or rights held by the City have been recorded or filed for record wherever necessary. In the event of conflicts with existing underground utilities or to preserve unknown cultural or historic resources, the City has the right to eminent domain and will take condemnation action, if necessary, to acquire any sites, easements, or rights-of-way which may be required to change the location of any of the facilities described above; and upon acquisition of the rights-of-way and recording of documents, will submit another site certificate to that effect.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Signature of City's Counsel)

\_\_\_\_\_  
(Print Name and Title)

**EXHIBIT C-2  
to Commitment Agreement**

**FORM OF ENGINEER'S CERTIFICATE**  
(five executed originals to be furnished at or prior to loan closing)

This is to certify that the undersigned is the engineer for **THE CITY OF NATCHITOCHEES, STATE OF LOUISIANA** (the "City"), with respect to:

(insert proposed contract number and description):

in accordance with approved plans and specifications and designated as Project Number 1069007-1 by the State of Louisiana, Drinking Water Revolving Loan Fund program.

The undersigned does hereby further certify that we are familiar with the water system of said City, including all the appurtenant equipment, accessories and properties, both real and personal (the "System") and have reviewed or participated in the actions taken by the City in obtaining continuous and adequate land and rights-of-way for the construction and operation of the System.

We further certify that we have reviewed the "Site Certificate" attached hereto and that we are not aware of any occurrences that would vary the statements contained therein and that we are not aware of any problem involving sites, easements, rights-of-way, or specific use permits that will materially impede the construction, operation and maintenance of the project described in said site certificate.

We further certify that all easements, franchises, rights-of-way and all other property necessary and essential to the operation of said System to constitute a complete and workable sewer system or necessary for the ownership by the City to constitute a revenue producing facility have been obtained.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(Signature of Engineer)

\_\_\_\_\_  
(Print Name and Title)

**EXHIBIT C-3**  
**to Commitment Agreement**

**FORM OF CERTIFICATE REGARDING  
CROSS-CUTTING FEDERAL AUTHORITIES**

(Five executed originals to be furnished at or prior to loan closing)

The undersigned Mayor of the City of Natchitoches, State of Louisiana (the "City"), do hereby certify that the City will comply with laws, regulations, policies and conditions relating to the Drinking Water Revolving Loan Fund (the "SRF"). I further certify that so long as the Loan is outstanding, to the extent that any of the following are applicable to the City or the Project, the City will comply with following cross-cutting federal authorities that apply to projects and activities receiving assistance from the SRF:

ENVIRONMENTAL AUTHORITIES:

1. National Environmental Policy Act (P.L. 91-190), the Clean Water Act (P.L. 92-500, as amended) and the Safe Drinking Water Act (P.L. 93-253, as amended) to protect the quality of the environment, all surface water, ground water and sole source aquifers.
2. The applicable State Environmental Review Process (See 40 CFR Part 35) to ensure consideration of environmental impacts, to resolve compliance through prudent planning and to integrate compliance with other cross-cutting environmental laws.
3. Section 106 of the National Historic Preservation Act of 1966 (PL 89-665, as amended), Executive Order 11593, and the Archaeological and Historic Preservation Act of 1974 (PL 93-291), to minimize harm to historic landmarks and/or cultural resources in the project area.
4. Executive Order No. 11990 (1977), as amended by Executive Order No. 12608 (1997), to minimize the destruction, loss, or degradation of wetlands in any manner when there are feasible alternatives available; and Executive Order No. 11988 (1977), as amended by Executive Order No. 12148 (1979), to promote the prudent management of flood plains; and the Farmland Protection Policy Act (P.L. 97-98) to minimize adverse effects of federal programs on farmland.
5. Coastal Zone Management Act (P.L. 92-583, as amended) and the Coastal Barrier Resources Act (P.L. 97-348, as amended) to protect and enhance the nation's coastal zones and ecologically sensitive coastal barriers.
6. Wild and Scenic Rivers Act (P.L. 90-542, as amended) to preserve the special scenic, cultural, historic, recreational, geological, and fish and wildlife values of the nation's free flowing rivers and adjacent land.
7. Endangered Species Act (P.L. 93-205, as amended) to ensure that the project will not jeopardize, destroy, or adversely modify the continued existence of any endangered or threatened species or adversely affect its critical habitat.

8. Essential Fish Habitat Consultation Process under the Magnuson-Stevens Fishery Conservation and Management Act (P.L. 94-265, as amended) to manage and conserve national fishery resources.

9. The approved State Implementation Plan under the Clean Air Act (P.L. 95-95).

10. Safe Drinking Water Act (P.L. 93-523, as amended) to determine the impact, if any, that the project may have on ground water supplies.

11. Wilderness Act (16 U.S.C. 1131, *et. seq.*) to protect areas in national parks, wildlife areas or forests that have been designated as wilderness areas.

12. Fish & Wildlife Coordination Act (P.L. 89-665, as amended) to protect fish and wildlife when Federal actions result in the control or modification of a natural stream or body of water.

#### SOCIAL POLICY AUTHORITIES:

13. Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination in the provision of service and benefits on the basis of race, color, or national origin.

14. Section 13 of the Federal Water Pollution Act Amendments of 1972 (33 U.S.C. Sec 1251), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec 794), and the Age Discrimination Act of 1975 (42 U.S.C. Sec 6102), which prohibit discrimination in the provision of services and benefits on the basis of race, color, national origin, sex, handicap or age.

15. Executive Order No. 11246 (1965), which applies equal employment opportunity principles to federally assisted construction programs.

16. Excutive Orders 11625, 12138, 12432 and Section 129 of the Small Business Administration and Reauthorization and Amendment Act of 1988 (P.L. 100-590) with reference to utilization of minority and/or women business enterprises.

17. Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act (P.L. 102-389) to take six affirmative steps that are intended to promote the participation of disadvantaged business enterprises in their projects and activities, and thereby increase the likelihood that the state will achieve its fair share objective.

18. Executive Order 12898 (1994) with reference to federal actions to address environmental justice in minority populations and low-income populations.

#### ECONOMIC & MISCELLANEOUS AUTHORITIES:

19. Section 306 of the Clean Air Act, Section 508 of the Clean Water Act and Executive Order 11738 (1973), which prohibit the procurement of goods, services, or materials from suppliers who have been convicted of violations of these laws.

20. Executive Order No. 12549 (1986), which prohibits participation in a federal assistance program by anyone who has been debarred or suspended.

21. Demonstration Cities and Metropolitan Development Act of 1966 (P.L. 89-754), which requires intergovernmental review of the proposed project.

22. Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of federally assisted programs (See 40 CFR Part 4). These requirements apply to all interests in real property acquired for project purposes regardless of SRF participation.

23. Executive Order 13202 (2001), as amended by Executive Order 13208 (2001), with reference to preservation of open competition and government neutrality towards government contractors' labor relations on federal and federally funded construction projects.

OTHER AUTHORITIES:

24. All applicable requirements of all other federal and state laws, executive orders, policies, and regulations governing this program including compliance with the Single Audit Act (OMB Circular A-133).

25. Requirements that the facility to be designed to comply with the "American National Specifications for Making Buildings Accessible to, and Usable by the Physically Handicapped," Number A117-1-196.

The undersigned further agrees that the City will obtain approval by DHH of the final design drawings and specifications before the project is advertised for bidding; will complete the project in accordance with this application, the approved System Improvement Plan, and approved plans and specifications; and, will submit project changes to DHH for prior approval.

I further certify that I am a duly authorized representative of the City, and that I have read and understand these requirements and assurances.

CITY OF NATCHITOCHEs, STATE OF  
LOUISIANA

August 10, 2009

By: Wayne McCullen  
Mayor

---

**DRINKING WATER  
REVOLVING LOAN FUND**

**SUPPLEMENTAL LOAN AGREEMENT**

dated as of October 1, 2009

---

by and between

Louisiana Department of Health and Hospitals

and the

City of Natchitoches, State of Louisiana

---

relating to the issuance of:

not exceeding \$5,000,000

Utilities Revenue Bonds, Series 2009

of the

City of Natchitoches, State of Louisiana

Loan No. 1069007-1

## SUPPLEMENTAL LOAN AGREEMENT

This **SUPPLEMENTAL LOAN AGREEMENT**, which shall be dated for convenience as of October 1, 2009, by and between:

**LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS** (the "Department"), an executive department and agency of the State of Louisiana, appearing through its Office of Public Health, whose mailing address is P.O. Box 4489, Baton Rouge, Louisiana 70821-4489, appearing herein through M. Rony Francois, MD, MSPH, PhD, the Assistant Secretary for the Office of Public Health, duly authorized hereunto, pursuant to an executive order of the Secretary of the Department dated March 28, 2008, and

**THE CITY OF NATCHITOCHE, STATE OF LOUISIANA** (the "City"), a political subdivision of the State of Louisiana, appearing herein through Wayne McCullen, its Mayor, and Carol Steadman, its Clerk, both duly authorized hereunto pursuant to an ordinance adopted by the governing authority of the City on August 10, 2009;

**WHO DECLARED** that they desire to avail themselves of the provisions of Article VI, Section 20 and Article VII, Section 14(C) of the Louisiana Constitution of 1974 by entering into this Supplemental Loan Agreement (the "Agreement") for the objects and purposes and under the conditions, covenants and stipulations hereinafter set forth.

### **THE DEPARTMENT AND THE CITY HEREBY MAKE THE FOLLOWING FINDINGS AND DECLARATIONS:**

**WHEREAS**, the United States of America, pursuant to the Safe Drinking Water Act Amendments of 1996, specifically Section 300j-12 of Title 42 of the United States Code (the "Federal Act"), is authorized to make capitalization grants to states to be used for the purpose of providing loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in a State Revolving Fund, or to provide other financial assistance authorized under the Federal Act to community water systems and nonprofit non-community water systems, other than systems owned by Federal agencies; and

**WHEREAS**, in order to be eligible to receive such capitalization grants, a state must establish a drinking water revolving loan fund and each grant to a state under the Federal Act must be deposited in the State Revolving Fund established by the state; and

**WHEREAS**, the State of Louisiana (the "State"), pursuant to Chapter 32 of Title 40 of the Louisiana Revised Statutes of 1950, as amended (La. R.S. 40:2821, *et seq.*) (the "State Act"), has established a Drinking Water Revolving Loan Fund in the custody of the Department (the "State Revolving Fund") to be used for the purpose of providing financial assistance for the improvement of public drinking water systems in the State, as more fully described in Section 2825(A)(2) of the State Act, and has authorized the Department's Office of Public Health to establish assistance priorities and perform oversight and other related activities with respect to the State Revolving Fund; and

**WHEREAS**, La. R.S. 40:2825(1)(A)(2) authorizes the State Revolving Fund to use funds therein, among other purposes, to provide financial assistance, to the extent authorized under state law, for the planning, design, construction, and rehabilitation of both publicly and privately owned community water systems, and of nonprofit non-community water systems, and to provide for any other expenditure consistent with the capitalization grant agreement; and

**WHEREAS**, Division A, Title VII of the American Recovery and Reinvestment Act of 2009, P.L. 111-5 ("ARRA") provides that \$2,000,000,000 shall be made available for capitalization grants to drinking water revolving funds in the various states under Section 1452 of the Safe Drinking Water Act, of which \$27,624,000 has been made available to the State Revolving Fund, subject to the additional requirement of ARRA that not less than 50 percent of such amount be used to provide additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans or grants or any combination of these; and

**WHEREAS**, the City has made application to the Department for a loan from the State Revolving Fund to finance a portion of the costs of constructing and acquiring improvements, extensions and replacements to its waterworks System, as are generally described in Exhibit A hereto (the "Project") and in accordance with Section 300j-12(b) of the Federal Act, the Department has prepared an intended use plan with respect to funds available in the State Revolving Fund, including funds made available pursuant to ARRA, which intended use plan includes the Project; and

**WHEREAS**, the City has demonstrated to the satisfaction of the Department that it has the technical, managerial, and financial capability to ensure compliance with the requirements of Federal Act and that it is not in significant noncompliance with any requirement of a national primary drinking water regulation or variance; and

**WHEREAS**, the Department has approved the City's application for a loan from the State Revolving Fund to finance the costs of the Project and by this agreement wishes to provide for compliance with applicable provisions of ARRA, including the additional subsidization required by ARRA, with respect to the use of ARRA funds that will be used to make the loan to the City; and

**WHEREAS**, indebtedness will be incurred by or on behalf of the City to represent the City's obligation to repay the loan from the State Revolving Fund, which indebtedness is referred to herein as the "Bonds"; and

**WHEREAS**, under the Cooperative Economic Development Law (La. R.S. 33:9020, *et seq.*) the State of Louisiana (the "State"), its local governmental subdivisions (with or without the creation of an economic development corporation), political corporations, public benefit corporations, the United States or its agencies, or any public or private association, corporation, or individual may enter into cooperative financing arrangements between and among the State, its local governmental subdivisions, political corporations, public benefit corporations, the United States or its agencies, or any public or private association, corporation, or individual, to finance economic development projects, as defined in the Cooperative Economic Development Law; and

**WHEREAS**, such cooperative financing arrangements may include loans, loan guarantees, grants, or any form of financial subsidy or incentive; and

**WHEREAS**, the Department and the City intend by this Agreement to provide specifically for the additional subsidization requirements of ARRA described above;

**WHEREAS**, Article VII, Section 14(C) of the Constitution of the State of Louisiana of 1974 provides that for a public purpose "the State of Louisiana and its political subdivisions or political corporations may engage in cooperative endeavors with each other, with the United States or its agencies, or with any public or private association, corporation, or individual"; and

**WHEREAS**, the Department and the City desire to cooperate in the financing of the Project; and

**WHEREAS**, the public purpose of the Project is to further public health and the environment, and to implement the purposes of ARRA; and

**WHEREAS**, the Department has a reasonable expectation of receiving a benefit or value that is at least equivalent public health and environmental benefits to be derived from the Project and the financing thereof using ARRA funds, and the additional subsidization provided in Section 6 below is mandated by ARRA and is not a gratuitous donation;

**NOW, THEREFORE**, in consideration of the covenants and agreements hereinafter set forth to be kept and performed by the parties hereto, it is hereby agreed by and between the parties as follows:

**SECTION 1. ARRA and Non-ARRA Loans.** For the purpose of financing the costs of the Project and certain administrative costs relating to the issuance of the Bonds, as described generally in Exhibit A hereto, the Department has made a commitment:

to make a loan of \$\_\_\_\_\_ of funds derived under ARRA, to be evidenced by the City's \_\_\_\_\_ Bonds, Series 20\_\_A (the "ARRA Loan"), and

to make a loan of \$\_\_\_\_\_ of non-ARRA funds, to be evidenced by the City's \_\_\_\_\_ Revenue Bonds, Series 20\_\_B (the "Non-ARRA Loan"),

under the terms and conditions specified in the Federal Act, the State Act, a Commitment Agreement dated as of October 1, 2009, a Loan & Pledge Agreement dated as of October 1, 2009, an ordinance adopted by the governing authority of the City on August 10, 2009, and the Bonds, provided that all of the conditions and requirements hereinafter set forth are fulfilled to the satisfaction of the Department.

The Department will separately manage and track apportionments, allotments, obligations, and expenditures related to the ARRA Loan and Non-ARRA Loan for accounting purposes.

Both the ARRA Loan and the Non-ARRA Loan shall be governed by the aforesaid Commitment Agreement and Loan Agreement. However, the ARRA Loan shall be subject to the additional provisions and requirements set forth herein, and shall be entitled to the benefits of the additional subsidization required by ARRA and set forth herein.

**SECTION 2. Commencement of Construction; Contract.** The City agrees that each phase of the Project being financed in whole or in part with proceeds of the ARRA Loan will be subject to a binding construction contract and/or will be under construction no later than February 16, 2010. As evidence of compliance with this section, the City will furnish the Department with an executed copy of any applicable construction contract and/or a notice to proceed with construction no later than February 16, 2010. If the Project is the subject of multiple construction contracts, then all such construction contracts relating to the portion of the Project that is being funded with the ARRA Loan must be entered into, or each such phase of the Project be under construction, no later than February 16, 2010.

**SECTION 3. Use of American Iron, Steel, and Manufactured Goods.** In order to comply with Section 1605 of ARRA, the City agrees that all of the iron, steel, and manufactured goods used in the portion of the Project that is funded in whole or in part with the ARRA Loan shall be produced in the United States unless the head of the United States Department of Environmental Quality ("EPA") finds that:

- (a) applying the foregoing requirement would be inconsistent with the public interest;
- (b) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- (c) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall Project by more than 25 percent.

The City agrees that the Project engineer(s) will in good faith design the Project and solicit bids for construction with American-made iron, steel and manufactured goods, and that it will include the applicable "Buy American" terms in any request for proposal or solicitations for bids and in all contracts related to the Project. Language similar to that attached hereto as Exhibit B may be used for this purpose.

If the City determines that it cannot comply with the requirements of this section, it will request a waiver in accordance with procedures set forth by EPA, and shall notify the Department that it is requesting such a waiver from EPA. If the head of EPA determines that it is necessary to waive the application of this section based on a finding under subsection (b), the head of EPA shall publish in the Federal Register a detailed written justification as to why the provision is being waived. For purposes of this Section:

**"Steel"** means an alloy that includes at least 50% iron, between 0.02% and 2% carbon, and may include other elements. Production in the United States of the iron or steel used in the Project requires that all manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives. The requirements of this Section

3 do not apply to iron or steel used as components or subcomponents of manufactured goods used in the Project.

**"Manufactured Good"** means a good brought to the construction site of the Project for incorporation into the Project that has been (a) processed into a specific form and shape or (b) combined with other raw material to create a material that has different properties than the properties of the individual raw materials. There is no requirement with regard to the origin of components or subcomponents in manufactured goods, as long as the manufacture of the goods occurs in the United States.

**"Reasonably available quantity"** means that the quantity of iron, steel, or the relevant manufactured good is available or will be available at the time needed and place needed and in the proper form or specification as specified in the Project plans and designs.

**"Satisfactory quality"** means the quality of iron, steel, or the relevant manufactured good as specified in the project plans and designs.

SECTION 4. Davis-Bacon Wage Rate Requirements. In order to comply with Section 1606 of ARRA, the City agrees that all laborers and mechanics employed by contractors and subcontractors on the portion of the Project that is funded in whole or in part with the ARRA Loan shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality of the City as determined by the Secretary of the United States Department of Labor ("DOL") in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code. DOL provides all pertinent information related to compliance with the foregoing requirements, including prevailing wage rates and instructions for reporting. The City will ensure that all construction contracts relating to the portion of the Project that is funded in whole or in part with the ARRA Loan will require that the contractor comply with the aforesaid wage and reporting requirements. This section shall not apply to "force account" work where the City may perform construction work using its own employees rather than any contractor or subcontractor.

SECTION 5. Prohibited Uses. None of the proceeds of the ARRA Loan shall be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool, unless the owner(s) or user(s) of such facility is or are using the utility services furnished by the Project as a member of the general public.

None of the proceeds of the ARRA Loan shall be used for the purchase of land or any interest in land, including without limitation any easement, servitude or leasehold interest, as authorized by section 603(c) of the Federal Water Pollution Control Act or for activities authorized by section 1452(k) of the Safe Drinking Water Act, however proceeds of the ARRA Loan may be used to purchase land under the authority of Section 1452(a)(2) of the Safe Drinking Water Act.

SECTION 6. Additional Subsidization. In order to meet the federal-law mandate of ARRA that at least 50% of ARRA funds utilized by the State Revolving Fund be used to provide additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans or grants or any combination of these, the Department agrees that it shall forgive the indebtedness represented by up to \$ \_\_\_\_\_ (the "Additional Subsidy Amount") of the

principal amount of the ARRA Loan. Upon the payment of each principal draw on the ARRA Loan under the terms of the Loan Agreement, and without any further action on the part of the Department or the City, \_\_\_\_\_ (at least 50% and up to 100%) % of the principal amount of such draw on the ARRA Loan shall immediately and irrevocably be deemed to be forgiven by the Department, up to an aggregate amount not more than the Additional Subsidy Amount described above, and no interest shall accrue on the principal amount that is so forgiven.

SECTION 7. Reporting Requirements under Section 1512 of ARRA. Section 1512 of ARRA (the "Jobs Accountability Act") requires that the Department make quarterly reports to EPA regarding the use of grant moneys received under ARRA. In order to assist the Department in complying with the Jobs Accountability Act, the City certifies to the Department that to the best of its knowledge, and as of the date of this agreement, the Project will provide the following jobs:

Number of temporary construction jobs	_____
Number of permanent jobs retained	_____
Number of new permanent jobs created	_____

The City will update and/or confirm the foregoing employment figures whenever it becomes aware of any changes, or upon request of the Department.

SECTION 8. Relating to Article VII, Section 14 of the Louisiana Constitution. As described in the preambles hereto, Division A, Title VII of ARRA provides for additional federal capitalization grants to the State Revolving Fund, and mandates that the Department apply not less than 50 percent of such additional federal capitalization grants be used to provide additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans or grants or any combination of these. The State is not required to furnish any matching funds in order to obtain the additional federal capitalization grant under ARRA, thus the moneys being used to make the ARRA Loan are 100% federal funds. Pursuant to ARRA, the Department is under a federal mandate to provide additional subsidization with these federal funds and to accomplish the following stated goals of ARRA:

- (1) to preserve and create jobs and promote economic recovery;
- (2) to assist those most impacted by the recession.
- (3) to provide investments needed to increase economic efficiency by spurring technological advances in science and health.
- (4) to invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits.
- (5) to stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

In granting the additional subsidization in Section 6 above, it is not the intent of the Department to enter into a gratuitous transfer of public funds because both the Department and

the City expect that the additional subsidization will fulfill the stated purposes of ARRA set forth above, and that they will each receive something of value in return for the performance of their obligations hereunder and under the Bonds, which is:

- (a) in the case of the Department, the fulfillment of the mission of the Office of Public Health to ensure that public drinking water systems within the state are in compliance with state and federal drinking water regulations, and to provide safe, sanitary drinking water facilities for the people of the State, thereby improving public health; and
- (b) in the case of the City, the fulfillment of its mission to ensure that its public drinking water system is in compliance with state and federal environmental regulations, and to provide safe, sanitary drinking water facilities for its water customers, thereby improving public health.

Additionally, both the Department and the City will have reciprocal obligations relating to the satisfaction of the additional requirements of ARRA set forth in Sections 2, 3 and 4 above, both in terms of complying with such sections and, in the case of the Department, ensuring compliance and making any necessary reporting of such compliance required by ARRA.

The Department and the City further find and determine that (a) the Department is legally mandated by the ARRA to provide the additional subsidization provided herein, (b) both the Department and the City have the legal authority to enter into this Agreement, (c) the Project being financed with ARRA funds is for a public purpose in that it provides safe drinking water utility services to the City's water customers and protects the environment, (d) the cost of the additional subsidization required by ARRA creates a public benefit, specifically a public health and environmental benefit, proportionate to its cost and (e) there is a reasonable expectation on the part of the Department of receiving at least equivalent value (in terms of public health and environmental benefits and furthering the goals of ARRA) in exchange for the additional subsidization provided in Section 6 above.

**SECTION 9. Compliance with Executive Order BJ 2008-29.** (a) The loans described in Section 1 above are conditioned on the availability of sufficient funds from ARRA and from other sources available to the Department to fulfill the obligations of the Department to make the loans hereunder.

(b) The Department has either (i) received written delegation of authority as described in Section 1 of Executive Order BJ2008-29, from the Director of the Office of Contractual Review, Division of Administration, with the approval of the Commissioner of Administration, as shown on Exhibit C hereto, or (ii) such officers have indicated their approval of this Agreement as indicated on the signature page hereof.

(c) Compliance by the City with the terms of this agreement shall be monitored by \_\_\_\_\_ (name and title). It is also acknowledged that ARRA requires significant and ongoing monitoring and reporting by the Department to the U.S. Environmental Protection Agency with regard to compliance by the City with the application requirements of ARRA. Written reports shall be provided to the Department by the City at least

every six (6) months concerning the use of funds and the specific goals and objectives for the use of the funds, in such form as may be required by the Department.

SECTION 10. Effective Date; Termination. This Agreement shall be effective on last date that this Agreement is executed by one of the parties hereto. This Agreement shall terminate upon the payment in full of the Bonds.

SECTION 11. Beneficiaries. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon, or to give to, any person or corporation, other than the Department and the City any right, remedy or claim under or by reason of this Agreement or any covenant, condition or stipulation thereof; and all the covenants, stipulations, promises and agreements contained herein shall be for the sole and exclusive benefit of the Department and the City.

SECTION 12. Successors and Assigns. Whenever in the Agreement any party or governing authority is named or referred to, it shall be deemed to include its successors and assigns and all the covenants and agreements contained herein shall bind and inure to the benefit of said successors and assigns whether so expressed or not.

SECTION 13. Severability. In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of hereof, but this Agreement shall be construed and enforced as if such illegal or invalid provisions had not been contained therein. Any constitutional or statutory provision enacted after the date hereof which validates or makes legal any provision of this Agreement which would not otherwise be valid or legal shall be deemed to apply to this Agreement.

SECTION 14. Amendment. This Agreement may be amended, supplemented or modified in writing by the consent of both the Department and the City.

SECTION 15. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which constitute but one and the same instrument.

SECTION 16. Applicable Law. This Commitment Agreement shall be governed by and construed in accordance with the laws of the State of Louisiana.

SECTION 17. Captions. The captions or headings in this Agreement are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

**[SIGNATURES ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, the Department and the City have caused this Supplemental Loan Agreement and Cooperative Endeavor to be executed and accepted on the respective dates set forth below, but dated for convenience of the parties as of the date first above-written.

HEALTH

LOUISIANA DEPARTMENT OF  
AND HOSPITALS, Office of Public Health

Date: \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_  
Assistant Secretary

CITY OF NATCHITOCHEs, STATE OF  
LOUISIANA

Date: August 10, 2009

By: Wayne McAllen  
Mayor

ATTEST:

By: Carl S. Steedman  
Clerk

(SEAL)

**[UNLESS A DELEGATION OF AUTHORITY IS ATTACHED HERETO  
AS EXHIBIT C, THE FOLLOWING APPROVALS ARE REQUIRED]**

This Agreement Is approved In accordance with Executive Order BJ 2008-29

Date: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Commissioner of Administration

Date: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Director, Office of Contractual Review

**EXHIBIT A  
to Cooperative Endeavor**

**DESCRIPTION OF PROJECT  
AND PRELIMINARY PROJECT BUDGET**

**[TO BE FURNISHED BY City**

**SAMPLE BIDDER CERTIFICATIONS  
RELATING TO BUY AMERICAN REQUIREMENTS**

1. Identification of American-made Iron, Steel, and Manufactured Goods: Consistent with the terms of the Purchaser's bid solicitation and the provisions of ARRA Section 1605, the Bidder certifies that this bid reflects the Bidder's best, good faith effort to identify domestic sources of iron, steel, and manufactured goods for every component contained in the bid solicitation where such American-made components are available on the schedule and consistent with the deadlines prescribed in or required by the bid solicitation.

2. Verification of U.S. Production: The Bidder certifies that all components contained in the bid solicitation that are American-made have been so identified, and if this bid is accepted, the Bidder agrees that it will provide reasonable, sufficient, and timely verification to the Purchaser of the U.S. production of each component so identified.

3. Documentation Regarding Non- American-made Iron, Steel, or Manufactured Goods: The Bidder certifies that for any component or components that are not American-made and are so identified in this bid, the Bidder has included in or attached to this bid one or both of the following, as applicable:

(a) Identification of and citation to a categorical waiver published by the U.S. Environmental Protection Agency in the Federal Register that is applicable to such component or components, and an analysis that supports its applicability to the component or components;

(b) Verifiable documentation sufficient to the Purchaser, as required in the bid solicitation or otherwise, that the Bidder has sought to secure American-made components but has determined that such components are not available on the schedule and consistent with the deadlines prescribed in the bid solicitation, with assurance adequate for the Bidder under the applicable conditions stated in the bid solicitation or otherwise.

4. Information and Detailed Justification Regarding Non- American-made Iron, Steel, or Manufactured Goods: The Bidder certifies that for any such component or components that are not so available, the Bidder has also provided in or attached to this bid information, including but not limited to the verifiable documentation and a full description of the bidder's efforts to secure any such American-made component or components, that the Bidder believes are sufficient to provide and as far as possible constitute the detailed justification required for a waiver under section 1605 with respect to such component or components. The Bidder further agrees that, if this bid is accepted, it will assist the Purchaser in amending, supplementing, or further supporting such information as required by the Purchaser to request and, as applicable, implement the terms of a waiver with respect to any such component or components.

**SAMPLE CONTRACT LANGUAGE**  
**RELATING TO BUY AMERICAN REQUIREMENTS**

The Contractor acknowledges to and for the benefit of the City of Natchitoches, State of Louisiana (the "Purchaser") and the Drinking Water Revolving Loan Fund (the "SRF") that it understands the goods and services under this Agreement are being funded with monies made available by the American Recovery and Reinvestment Act of 2009 ("ARRA") (or are being made available for a project being funded with monies made available by ARRA) and such law contains provisions commonly known as "Buy American," that requires all of the iron, steel, and manufactured goods used in the project be produced in the United States ("Buy American Requirements") including iron, steel, and manufactured goods provided by the Contractor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the SRF that (a) the Contractor has reviewed and understands the Buy American Requirements, (b) all of the iron, steel, and manufactured goods used in the project will be and/or have been produced in the United States in a manner that complies with the Buy American Requirements, unless a waiver of the requirements is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the Buy American Requirements, as may be requested by the Purchaser or the SRF. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Purchaser or SRF to recover as damages against the Contractor any loss, expense or cost (including without limitation attorney's fees) incurred by the Purchaser or SRF resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the SRF or any damages owed to the SRF by the Purchaser). While the Contractor has no direct contractual privity with the SRF, as a lender to the Purchaser for the funding of its project, the Purchaser and the Contractor agree that the SRF is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the SRF.

**EXHIBIT C**  
**to Cooperative Endeavor**

**DELEGATION OF AUTHORITY**  
**PURSUANT TO EXECUTIVE ORDER BJ 2008-29**

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**DRINKING WATER  
REVOLVING LOAN FUND**

**LOAN AND PLEDGE AGREEMENT**

dated as of October 1, 2009

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by and between

Louisiana Department of Health and Hospitals

and the

City of Natchitoches, State of Louisiana

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relating to the issuance of:

not exceeding \$5,000,000  
Utilities Revenue Bonds, Series 2009  
of the  
City of Natchitoches, State of Louisiana

Loan No. 1069007-1

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## LOAN AND PLEDGE AGREEMENT

This **LOAN AND PLEDGE AGREEMENT**, which shall be dated for convenience as of October 1, 2009, by and between:

**LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS** (the "Department"), an executive department and agency of the State of Louisiana, appearing through its Office of Public Health, whose mailing address is P.O. Box 4489, Baton Rouge, Louisiana 70821-4489, appearing herein through M. Rony Francois, MD, MSPH, PhD, the Assistant Secretary for the Office of Public Health, duly authorized hereunto, pursuant to an executive order of the Secretary of the Department dated March 28, 2008, and

**THE CITY OF NATCHITOCHE, STATE OF LOUISIANA** (the "City"), a political subdivision of the State of Louisiana, appearing herein through Wayne McCullen, its Mayor, and Carol Steadman, its Clerk, both duly authorized hereunto pursuant to an ordinance adopted by the governing authority of the City on August 10, 2009;

### WITNESSETH:

**WHEREAS**, the United States of America, pursuant to the Safe Drinking Water Act Amendments of 1996, specifically Section 300j-12 of Title 42 of the United States Code (the "Federal Act"), is authorized to make capitalization grants to states to be used for the purpose of providing loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in a State Revolving Fund, or to provide other financial assistance authorized under the Federal Act to community water systems and nonprofit non-community water systems, other than systems owned by Federal agencies; and

**WHEREAS**, in order to be eligible to receive such capitalization grants, a state must establish a drinking water revolving loan fund and each grant to a state under the Federal Act must be deposited in the State Revolving Fund established by the state; and

**WHEREAS**, the State of Louisiana (the "State"), pursuant to Chapter 32 of Title 40 of the Louisiana Revised Statutes of 1950, as amended (La. R.S. 40:2821, *et seq.*) (the "State Act"), has established a Drinking Water Revolving Loan Fund in the custody of the Department (the "State Revolving Fund") to be used for the purpose of providing financial assistance for the improvement of public drinking water systems in the State, as more fully described in Section 2825(A)(2) of the State Act, and has authorized the Department's Office of Public Health to establish assistance priorities and perform oversight and other related activities with respect to the State Revolving Fund; and

**WHEREAS**, the City has made application to the Department for a loan from the State Revolving Fund to finance a portion of the costs of constructing and acquiring improvements, extensions and replacements to its waterworks system, as are generally described in Exhibit A hereto (the "Project"); and

**WHEREAS**, the Department has approved the City's application for a loan from the State Revolving Fund to finance the costs of the Project; and

**WHEREAS**, in accordance with Section 300j-12(b) of the Federal Act, the Department has included a fundable list in its Intended Use Plan with respect to funds available in the State Revolving Fund which includes the Project; and

**WHEREAS**, the City has demonstrated to the satisfaction of the Department that it has the technical, managerial, and financial capability to ensure compliance with the requirements of Federal Act and that it is not in significant noncompliance with any requirement of a national primary drinking water regulation or variance; and

**WHEREAS**, the City, by ordinance of its governing authority adopted on August 10, 2009, has authorized the incurring of debt and the issuance of its Utilities Revenue Bonds, Series 2009 in an amount not to exceed \$5,000,000 (the "Bonds"), for the purpose of paying costs of the Project, which Bonds are proposed to be purchased by the Department using available moneys in the State Revolving Fund;

**NOW, THEREFORE**, the Department and the City each agree to perform their respective obligations under this Loan Agreement in accordance with the conditions, covenants and procedures set forth herein and in the exhibits attached hereto and made a part hereof as follows:

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## ARTICLE I

### DEFINITIONS AND INTERPRETATION

SECTION 1.01. Definitions. The following terms used in this Loan Agreement shall have the following meanings, unless the context clearly requires otherwise:

**"Administrative Fee"** means the annual fee equal to one-half of one percent (0.5%) *per annum* of the outstanding principal amount of the Bonds, or such lesser amount as the Department may approve from time to time, which shall be payable each year in two equal semi-annual installments on each Interest Payment Date of the Bonds.

**"Authorized Officer"** means the officer or officers of the City who have executed this Loan Agreement, or their successors in office, or such other person or persons authorized pursuant to a resolution or ordinance of the Governing Authority to act as an authorized officer of the City to perform any act or execute any document relating to the Loan, the Bonds or this Loan Agreement.

**"Authorizing Ordinance"** means the ordinance adopted by the governing authority of the City authorizing the issuance of the Bonds and authorizing the sale of the Bonds to the Department, as it may be supplemented, modified or amended from time to time in accordance with its terms.

**"Bonds"** shall mean the City's Utilities Revenue Bonds, Series 2009, in an amount not to exceed Five Million Dollars (\$5,000,000), which indebtedness is being issued by the City pursuant to the Authorizing Ordinance for the purpose of paying Costs of the Project, sold to the Department and purchased by the Department from moneys in the State Revolving Fund.

**"City"** means the City of Natchitoches, State of Louisiana, a political subdivision of the State of Louisiana, and its successors or assigns.

**"Code"** means the Internal Revenue Code of 1986, as the same may be amended and supplemented from time to time, including any regulations promulgated thereunder or any administrative or judicial interpretations thereof.

**"Commitment Agreement"** means Commitment Agreement entered into between the Department and the City in connection with the Loan, including the exhibits attached thereto, as it may be supplemented, modified or amended from time to time in accordance with the terms thereof.

**"Completion Date"** means the earlier of (i) the date of the final disbursement of the purchase price of the Bonds to the City, or (ii) date the operation of the Project is initiated or capable of being initiated, as certified by an Authorized Officer in accordance with Section 6.05.

**"Construction Fund"** means the fund or account to be established in accordance with the City's customary accounting practices, into which each installment of the purchase price of the Bonds is to be deposited, and from which Costs of the Project will be disbursed by the City.

**"Contingencies Fund"** means the fund or account to be established or maintained in accordance with the City's customary accounting practices, for the purposes set forth in the Authorizing Ordinance and described in the Authorizing Ordinance as the "\_\_\_\_\_ Fund."

**"Costs of the Project"** means, with reference to the Project, all capital costs incurred or to be incurred for the Project, including but not limited to (a) engineering, financing, legal and other fees and expenses related to the engineering and design of the Project and related to the issuance of the Bonds, (b) acquisition and construction costs of the Project, (c) interest on the Bonds during construction, if specifically approved by the Department, and (d) a reasonable allowance for contingencies, all to the extent permitted by the Federal Act, the State Act and any rules or regulations promulgated thereunder.

**"Debt Service Fund"** means the fund or account to be established or maintained in accordance with the City's customary accounting practices, into which the City will periodically deposit funds for the payment of principal, Administrative Fee and interest on the Bonds, in the manner set forth in the Authorizing Ordinance.

**"Default"** means an event or condition, the occurrence of which would constitute with the lapse of time or the giving of notice or both an Event of Default with respect to the Bonds.

**"Delivery Date"** means the date on which the Bonds are delivered to the Department and the first installment of the purchase price therefor is paid by the Department to the City.

**"Department"** means the Louisiana Department of Health and Hospitals, an executive department and agency of the State, and any successor to the duties and functions thereof.

**"Engineer"** means a consulting engineer or firm of consulting engineers registered and licensed by the Louisiana Professional Engineering and Land Surveying Board, or its successor in function, as a professional engineer and selected by the City for the purpose of providing engineering services with respect to the Project. If the City employs a qualified in-house engineer, then such personnel may be the Engineer hereunder with the approval of the Department.

**"EPA"** means the United States Environmental Protection Agency or any successor entity which may succeed to the administration of the programs established by the Federal Act.

**"Event of Default"** means any occurrence or event specified in Section 10.01.

**"Federal Act"** means the Safe Drinking Water Act Amendments of 1996, specifically Section 300j-12 of Title 42 of the United States Code, and other statutory and regulatory authority amendatory or supplemental thereto.

**"Fiscal Year"** means the City's one-year accounting period determined from time to time by the Governing Authority as the fiscal year of the City.

**"Funds and Accounts"** collectively means the Construction Fund, the Revenue Fund, the Debt Service Fund, the Reserve Fund and the Contingencies Fund.

**"Governing Authority"** means the City Council of the City or its successor in function.

**"Interest Payment Date"** shall mean each date on which interest on the Bonds is payable, the first of which shall occur not more than six (6) months after the delivery of the Bonds to the Department and which shall occur semi-annually thereafter until the Bonds are paid in full, as determined by mutual agreement of the City and the Department on the date of delivery of the Bonds and designated in the Bonds.

**"Loan"** means the loan made by the Department from the State Revolving Fund to the City pursuant to this Loan Agreement, the obligation to repay which Loan is evidenced by the Bonds.

**"Loan Agreement"** means this Loan and Pledge Agreement, including the exhibits attached hereto, as it may be supplemented, modified or amended from time to time in accordance with the terms hereof.

**"Loan Amount"** means the maximum amount that the Department has agreed to loan the City, being the authorized principal amount of the Bonds.

**"Outstanding"** when used with respect to the Bonds, as of the date of determination, means all Bonds theretofore issued and delivered under the Authorizing Ordinance except:

- (a) Bonds that have been cancelled or delivered to the Registrar for cancellation;
- (b) Bonds that have been defeased in accordance with Section 4.02;
- (c) Bonds in exchange for or in lieu of which other Bonds have been registered and delivered pursuant to the Authorizing Ordinance; or
- (d) Bonds alleged to have been mutilated, destroyed, lost or stolen which have been paid as provided in the Authorizing Ordinance or by law.

**"Parity Obligations"** means additional *pari passu* indebtedness, if any, issued by the City and payable from the same source of revenues on a parity with the Bonds in the manner set forth in the Authorizing Ordinance.

**"Plans and Specifications"** means the drawings, elevations, shop drawings and accompanying specifications for work prepared by the Engineer for the City relating to the Project or any portion thereof.

**"Principal Payment Date"** means each annual principal payment date on the Bonds, which dates are set forth in the Authorizing Ordinance, the first of which shall occur no later than one (1) year after the Completion Date and the last of which shall occur no later than twenty (20) years after the Completion Date.

**"Project"** means the improvements to the System generally described in Exhibit A hereto, which are being financed through the issuance of the Bonds.

**"Registrar"** means the person designated as such in the Authorizing Ordinance, unless and until a successor Registrar shall have assumed such responsibilities pursuant to the applicable provisions of the Authorizing Ordinance and thereafter "Registrar" shall mean such successor Registrar.

**"Regulations"** means the regulations of the Department adopted pursuant to and in furtherance of the Safe Drinking Water Act, as amended, and the State Act, as such may be amended from time to time, including, without limitation Title 33, Part IX, Chapter 22 of the Louisiana Administrative Code (L.A.C. 33:IX.2201. *et seq.*).

**"Reserve Fund"** means the fund or account to be established or maintained in accordance with the City's customary accounting practices, into which there shall be deposited from available funds of the City, in the manner set forth in the Authorizing Ordinance (but not from the proceeds of the Loan unless specifically approved by the Department), a sum equal to the Reserve Fund Requirement, as defined in the Authorizing Ordinance.

**"Revenue Fund"** means the fund or account to be established or maintained in accordance with the City's customary accounting practices, into which all revenues of the System shall be deposited in the manner set forth in the Authorizing Ordinance.

**"Scheduled Completion Date"** means the date presently estimated by the City and the Engineer to be the Completion Date, which is \_\_\_\_\_.

**"State"** means the State of Louisiana.

**"State Act"** means the Louisiana Drinking Water Revolving Loan Fund Act, being Chapter 32 of Title 40 of the Louisiana Revised Statutes of 1950, as amended (La. R.S. 40:2821, *et seq.*), and other constitutional and statutory authority supplemental thereto.

**"State Loan Fund"** means the Drinking Water Revolving Loan Fund administered, operated and maintained by the Department pursuant to the Federal Act and the State Act.

**"System"** means the City's facilities that are used for the purpose of collecting, transporting, treating, storing, distributing or holding drinking water, as said system now exists, and as it may be hereafter improved, extended or supplemented while any of the Bonds remain outstanding, as more fully described in the Authorizing Ordinance.

**"User Fees"** means charges or fees levied on users of the System for the cost of operation, maintenance and replacement of the System, for the repayment of debt incurred with respect to the System and for such other purposes as may be determined by the Governing Authority from time to time.

#### SECTION 1.02. Rules of Interpretation

(a) Unless the context clearly indicates to the contrary, the following rules shall apply to the interpretation and construction of this Loan Agreement:

- (1) words importing the singular number shall include the plural number and *vice versa*;
  - (2) all references to particular articles or sections herein are references to articles or sections of this Loan Agreement;
  - (3) the captions and headings herein are solely for convenience of reference and shall not constitute a part of this Loan Agreement, nor shall they affect its meaning, construction or effect;
  - (4) the terms "hereby," "hercof," "hereto," "hercin," "hereunder" and any similar terms as used in this Loan Agreement refer to the Loan Agreement in its entirety and not the particular article or section of this Loan Agreement in which they appear; and
  - (5) the term "hereafter" means after the date of execution of this Loan Agreement and the term "heretofore" means before the date of the execution of this Loan Agreement.
- (b) In the event that any provisions of the Authorizing Ordinance conflict with any provision of this Loan Agreement, then the provisions of this Loan Agreement shall control.

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## ARTICLE II

### REPRESENTATIONS OF THE DEPARTMENT

SECTION 2.01. Representations of the Department. The Department represents and covenants as follows:

(a) The Department is authorized by the State Act to administer, operate and maintain the State Revolving Fund in full compliance with the Federal Act, as amended, and the requirements of the EPA promulgated thereunder.

(b) The Department has complied with the provisions of the Federal Act and the State Act and all regulations thereunder with respect to the State Revolving Fund and has full power and authority to execute and deliver this Loan Agreement and to consummate the transactions contemplated hereby and perform its obligations hereunder.

(c) The Department, by executive order of its Secretary, being the chief executive officer thereof, has authorized the execution, delivery and due performance of this Loan Agreement and the taking of any and all actions as may be required on the part of the Department to carry out, give effect to and consummate the transactions contemplated hereby and all approvals necessary in connection with the foregoing.

(d) There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or threatened against or affecting the Department or to the best knowledge of the Department is there any basis therefor, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated hereby or which in any way would adversely affect the validity of this Loan Agreement or any agreement or instrument to which the Department is a party and which is used or contemplated for use in consummation of the transactions contemplated hereby.

(e) The execution and delivery by the Department of this Loan Agreement and the consummation of the transactions contemplated hereby will not violate any indenture, mortgage, deed of trust, note, loan agreement, or other contract or instrument to which the Department is a party or by which it is bound, and to the best of the Department's knowledge any judgment, decree, order, statute, rule or regulation applicable to the Department and all consents, approvals, authorizations and orders of governmental or regulatory authorities which are required for the consummation of the transactions contemplated hereby have been obtained.

(f) The Department has determined that the Project, subject to final review of the Plans and Specifications, is eligible for financial assistance from the State Revolving Fund, and the Project is listed on the State's priority list as required by Section 1383(g) of the Federal Act.

SECTION 2.02. Representations of the City. The City represents and covenants as follows:

(a) The City is a political subdivision of the State and has full legal right and authority and all necessary licenses and permits required as of the date hereof to own, operate and maintain the System, to carry on its activities relating thereto, to execute and deliver this

Loan Agreement, to execute, issue and deliver the Bonds, to pledge the revenues necessary to secure the payment of the Bonds, to undertake and complete the Project and to carry out and consummate all transactions contemplated by this Loan Agreement.

(b) The proceedings of the Governing Authority approving this Loan Agreement and the Bonds and authorizing their execution, issuance and delivery by the City and authorizing the City to undertake and complete the Project, including, without limitation the Authorizing Ordinance, have been duly and lawfully adopted in accordance with the laws of the State, including the Open Meetings Law (R.S. 42:4.1, *et seq.*).

(c) The Authorizing Ordinance was duly adopted by the Governing Authority and was published in the official journal of the City no less than 30 days prior to the delivery date of the Bonds and since the said publication no actions or proceedings have been filed or threatened contesting the legality of the Authorizing Ordinance, the Bonds or any provision for payment of the Bonds.

(d) This Loan Agreement and the Bonds have been duly authorized and have been or will be duly executed and delivered by the Authorized Officer, and assuming that the Department has all the requisite power and authority to authorize, execute and deliver and has duly authorized, executed and delivered this Loan Agreement, this Loan Agreement and the Bonds will constitute the legal, valid and binding obligations of the City, enforceable in accordance with their respective terms.

(e) To the best of the City's knowledge, there is no fact that the City has not disclosed to the Department in writing on the City's application for the Loan or otherwise that materially adversely affects the properties, activities, prospects or condition (financial or otherwise) of the City or the System or the ability of the City to make all Loan repayments and otherwise to observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Bonds.

(f) To the best of the City's knowledge, the authorization, execution and delivery of this Loan Agreement and the Bonds by the City, the observance and performance by the City of its duties, covenants, obligations and agreements thereunder and under the Authorizing Ordinance and the consummation of the transactions provided for in this Loan Agreement, the Authorizing Ordinance and the Bonds, the compliance by the City with the provisions of this Loan Agreement, the Authorizing Ordinance and the Bonds and the undertaking and completion of the Project will not result in any breach of any of the terms, conditions or provisions of or constitute a default under or result in the creation or imposition of any lien, charge or other encumbrance upon any property or assets of the City pursuant to any ordinance or resolution, trust agreement, indenture, mortgage, deed of trust, loan agreement or other instrument (other than the lien and charge of the Authorizing Ordinance and the Bonds) and any ordinance, resolution or indenture which authorized outstanding debt obligations to which the City is a party or by which the City, the System or any of its property or assets may be bound, nor will such action result in any violation of the provisions of any laws, ordinances, resolutions, governmental rules, regulations or court orders to which the City, the System or its properties or operations are subject.

(g) There are no proceedings pending, or to the knowledge of the City threatened, against or affecting the City in any court or before any governmental authority or arbitration board or tribunal that have not been disclosed in writing to the Department in the City's application for the Loan or otherwise that, if adversely determined, would materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the City or its System or the ability of the City to make all Loan repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Bonds.

(h) To the best of the City's knowledge, no event has occurred and no condition exists that, upon authorization, execution and delivery of this Loan Agreement and the Bonds or receipt of the amount of the Loan, or upon the happening of any such event and the giving of notice and/or the passage of time, would constitute an Event of Default hereunder or under the Authorizing Ordinance. The City is not in violation of and has not received notice of any claimed violation of any term of any agreement or other instrument to which it is a party or by which it or the System or its properties may be bound, which violation would materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the City or its System or the ability of the City to make all Loan repayments or otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement, the Authorizing Ordinance and the Bonds.

(i) The City has obtained all permits and approvals required to date by any governmental body or officer (and reasonably expects to receive all permits required in the future by any governmental agency) for the making, observance and performance by the City of its duties, covenants, obligations and agreements under this Loan Agreement and the Bonds or for the undertaking or completion of the Project and the financing or refinancing thereof and the City has complied with all applicable provisions of law requiring any notification, declaration, filing or registration with any governmental body or officer in connection with the making, observance and performance by the City of its duties, covenants, obligations and agreements under this Loan Agreement and the Bonds or with the undertaking or completion of the Project and the financing or refinancing thereof. No consent, approval or authorization of, or filing, registration or qualification with any governmental body or officer that has not been obtained is required on the part of the City as a condition to the authorization, execution and delivery of this Loan Agreement and the Bonds, the undertaking or completion of the Project or the consummation of any transaction herein contemplated.

(j) The City is in compliance with all laws, resolutions, ordinances, governmental rules and regulations to which it is subject, the failure to comply with which would materially adversely affect the ability of the City to conduct its activities or undertake or complete the Project, or the condition (financial or otherwise) of the City or its System; and the City has obtained or will obtain all licenses, permits, franchises or other governmental authorizations presently necessary for the ownership of its property or for the conduct of its activities which, if not obtained, would materially adversely affect the ability of the City to conduct its activities or undertake or complete the Project or the condition (financial or otherwise) of the City or its System.

(k) The City has not previously pledged the revenues being used to repay the Bonds to the payment of any indebtedness of the City or any other entity, other than the Parity Obligations, if any, defined in Section 1.01.

SECTION 2.03. Particular Covenants of the City. The City further covenants and agrees for the benefit of the Department as follows:

(a) The City agrees that the estimated Costs of the Project, as listed in Exhibit C hereto and made a part hereof, is a reasonable and accurate estimation as of the date hereof, and upon direction of the Department will supply the same with a certificate from its Engineer stating that such estimated cost is a reasonable and accurate estimation. With the approval of the State Loan Fund Program Manager, the City and the Department may mutually agree to change the allocation and categories shown in said Exhibit C without the necessity of amending the Loan Agreement.

(b) The City will promptly notify the Department of any material adverse change in the activities, prospects or condition (financial or otherwise) of the City relating to the System or to the ability of the City to make all or any Loan repayments, provide for the payment of Administrative Fees and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Bonds.

SECTION 2.04. Tax-Exempt Status of Bonds. The City covenants and agrees for the benefit of the Department that it will not take any action or omit to take any action, which action or omission would result in the loss of the exclusion of the interest on the Bonds (if the Bonds are issued as tax-exempt obligations for federal income tax purposes) or on any debt obligations now or hereafter issued by or on behalf of the Department from gross income for purposes of federal income taxation, as that status is governed by the Code. Furthermore, the City will not take any action or fail to take any action that could cause the Bonds or any debt obligations now or hereafter issued by or on behalf of the Department to be "arbitrage bonds" or "private activity bonds" under the Code.

The City shall not purchase, pursuant to any arrangement, formal or informal, any debt obligations issued by or on behalf of the Department in an amount related to the amount of the Loan.

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## ARTICLE III

### LOAN TO CITY; ISSUANCE OF BONDS

SECTION 3.01. Terms of the Loan. The Department hereby agrees to reserve in the State Revolving Fund a sum equal to the Loan Amount from the sums available to the Department or to be received by the Department to be deposited in the State Revolving Fund. The Department further agrees that it will effect the Loan by purchasing the Bonds from the City and paying the purchase price thereof in installments pursuant to this Loan Agreement and the Authorizing Ordinance in accordance with Sections 7.01 and 7.02.

The City will apply the proceeds of the Loan to finance the Costs of the Project, and where applicable, to reimburse the City or any lender for such portion of the Costs of the Project that was paid or incurred by the City or for payment of the cost of which sums were borrowed on an interim basis in anticipation of reimbursement by the Department.

Notwithstanding the foregoing, (i) the Department shall be under no obligation to continue to make disbursements after an Event of Default has occurred and is continuing under the Authorizing Ordinance or this Loan Agreement; and (ii) the Department shall not be obligated to make or continue to make disbursements if funds are not legally available to the Department in the State Revolving Fund to make the Loan or make disbursements pursuant to the Loan. The City shall use the proceeds of the Loan strictly in accordance with the terms of the Authorizing Ordinance and this Loan Agreement.

SECTION 3.02. Issuance of Bonds. As evidence of its obligation to repay the principal, interest and premium, if any, of the Loan, and to pay the Administrative Fee, the City contemporaneously herewith has issued and delivered the Bonds to the Department, which Bonds are payable in the manner and from the sources set forth in the Authorizing Ordinance.

SECTION 3.03. Delivery of Documents. On the Delivery Date the City will cause to be delivered to the Department each of the following items:

- (a) the executed opinions of counsel to the City in such form and containing such conclusions as may be reasonably required by the Department, addressed to the Department and the City;
- (b) a certificate or certificates, satisfactory in form and substance to the Department, from an authorized officer of the City, dated such Closing Date, to the effect that:
  - (i) each of the representations of the City set forth herein and in the Loan Agreement is true, accurate and complete in all material respects as of such Closing date, and each of the agreements of the City set forth in the Loan Agreement to be complied with at or prior to such Closing Date has been complied with as of such date;
  - (ii) no litigation is pending, or to the knowledge of the authorized officer's knowledge, threatened, to restrain or enjoin the issuance, execution, sale or delivery of the Bonds or in any way contesting or affecting any authority for or the validity of the Bonds, the Loan Agreement, the Authorizing Ordinance or the

creation, existence or powers of the City or the title of the present officers of the City, or any of them, to the respective offices and that none of the proceedings or authority for the issuance of the Bonds have been repealed, revoked or rescinded; and

(iii) the Bonds have been duly authorized, executed and delivered by the City, constitute valid and legally binding obligations of the City and are entitled to the security of and are secured by the Authorizing Ordinance which, together with the Loan Agreement have been duly authorized, executed and delivered by the City;

(c) a non-arbitrage certificate or use of proceeds certificate executed by a duly authorized officer of the City in form and substance satisfactory to the Department and an opinion of bond counsel acceptable to the Department;

(d) executed originals of the Bonds and the Loan Agreement and a certified copy of the Authorizing Ordinance;

(e) executed originals of a Site Certificate, an Engineer's Certificate and a Certification Regarding Cross-Cutting Federal Authorities, in substantially the forms attached to the Commitment Agreement; and

(f) such additional certificates, instruments and other documents, dated as of the Closing Date or before, as the Department or its counsel reasonably require to evidence the truth and accuracy as of the Closing Date of the representations of the City herein contained and contained in the Loan Agreement and the due performance and satisfaction by the City at or prior to such time of all agreements to be performed and all conditions then to be satisfied by the City.

(g) the Bonds duly executed;

SECTION 3.04. Interest and Principal Payments. The Bonds shall be payable as set forth in the Authorizing Ordinance and as follows:

(a) Interest shall be payable semiannually in arrears on each Interest Payment Date based on the amount of the Loan theretofore paid by the Department to the City; and

(b) Principal shall be payable annually on each Principal Payment Date in the amounts set forth on Exhibit B hereto. Exhibit B has been prepared assuming that the full amount of the Bonds will be disbursed. In the event that less than the full amount of the Loan is made to the City, then the payment schedule shown as Exhibit B will be adjusted in the manner set forth in the Authorizing Ordinance and in this Loan Agreement.

Promptly after the payment of the final installment of the purchase price of the Bonds, the completion certificate required by Section 6.05 shall be attached to and made a part of the Bonds.

In the event that any installment of principal, interest or Administrative Fee shall become past due for a period in excess of fifteen (15) days from the payment date specified herein, in addition to interest continuing to accrue on the principal amount due until the payment thereof,

the City shall pay upon demand an amount equal to five percent (5%) of the amount of such past-due installment to defray the expenses of handling the delinquent payment.

SECTION 3.05. Prepayment of Bonds. The Department acknowledges that the Bonds are subject to prepayment at the times and in the manner set forth in the Bonds and in the Authorizing Ordinance. In addition to the principal, interest and premium, if any, on such prepayment date, the City shall pay to the Department the amount of the Administrative Fee that has accrued on the amount prepaid from the most recent date on which any Administrative Fee was paid.

Prepayment shall be applied first to the Administrative Fee, second to accrued interest on the portion of the Bonds to be redeemed, then to any redemption or prepayment premium and finally to principal.

SECTION 3.06. Administrative Fee. The Administrative Fee shall be payable to the Department on each Interest Payment Date. The City's obligation to pay the Administrative Fee shall be terminated upon the sale or other disposition of the Bonds by the Department, other than a pledge or assignment of the Bonds or this Loan Agreement pursuant to Section 11.01, or upon full payment by the City of the Bonds and all amounts owed the Department under this Loan Agreement. In the event that the Administrative Fee is declared illegal or unenforceable by a court or administrative body of competent jurisdiction, the interest rate borne by the Bonds shall be increased by one half of one percent (0.50%) *per annum*, effective as of the date declared to be the date from which the Administrative Fee is no longer owed because of such illegality or unenforceability.

SECTION 3.07. Manner of Repayment. Payment of the principal, interest and premium on the Bonds, and payment of the Administrative Fee, shall be made by immediately available funds or mailed and/or made available to the Department no later than the applicable payment date at the following address:

Department of Health & Hospitals  
Office of Management & Finance  
ATTN: Cash Management  
P. O. Box 61979  
New Orleans, LA 70161-1979

or such other address as may be designated by the Department, without presentation or surrender of the Bonds, except upon final payment. If acceptable to the Department, the City may make arrangements to make such payments by wire transfer of immediately available funds.

Payments with respect to the Bonds shall be applied first to the interest due to the date of payment, next to principal and thereafter to the Administrative Fees and other amounts payable on the Loan and the payment of principal and interest shall be recorded on a payment record to be kept and maintained by the Department.

SECTION 3.08. Disclaimer of Warranties and Indemnification. The City acknowledges and agrees that:

(a) the Department and the State make no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the System, the Project or any portions thereof or the Plans and Specifications or any other warranty or representation with respect thereto;

(b) in no event shall the Department or the State be liable or responsible for any direct, incidental, indirect, special or consequential damages in connection with or arising out of this Loan Agreement or the Project or the existence, furnishings, functioning or use of the System or the Project or any item or products or services provided for in this Loan Agreement, including the Plans and Specifications; and

(c) to the extent authorized by law, the City hereby indemnifies, saves and holds harmless the Department and the State against any and all claims, damages, liability and court awards, including costs, expenses and attorney fees, incurred as a result of any act or omission by the City, or its employees, agents or subcontractors pursuant to the terms of this Loan Agreement, including but not limited to failure of the Department to note any defect in materials or workmanship or of physical conditions or failure to comply with any plans, specifications, drawings, ordinances, statutes or other requirements of a governmental authority, or to call to the attention of any person whatsoever, or take any action, or to demand that any action be taken, with regard to any such defect or failure or lack of compliance.

SECTION 3.09. Registrar. The City agrees to initially prepare, keep, and maintain books and records reflecting the authorization, issuance, transfer and assignment of the Bonds and has appointed the Registrar in the Authorizing Ordinance. A successor Registrar may be appointed in the manner set forth in the Authorizing Ordinance, provided, however, that in no event shall the Department be liable for the payment of any fees of such Registrar.

SECTION 3.10. Lost, Destroyed or Improperly Cancelled Bonds. In case any of the Bonds shall become lost, destroyed or improperly cancelled, such Bonds may be replaced pursuant to any applicable terms of the Authorizing Ordinance, or in the absence of any such terms, in the manner set forth in R.S. 39:971, *et seq.*, or other applicable laws.

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## ARTICLE IV

### PAYMENT OF BONDS; DEFEASANCE

SECTION 4.01. Pledge of Revenues. The Bonds, and to the extent allowed by applicable law all other sums due pursuant to this Loan Agreement, including the Administrative Fee, equally with the Parity Obligations, if any, shall be secured and payable from a pledge and dedication of the revenues of the combined water and sewerage system, after payment of the reasonable and necessary expenses of operating and maintaining the System. The net revenues of the System shall be set aside in the Funds and Accounts described in the Authorizing Ordinance and shall be and remain so pledged for the security and payment of the Bonds in principal and interest, until the Bonds shall be fully paid and discharged. The City agrees that it shall not further encumber the pledged revenues, to the payment of any indebtedness having an equal or superior lien to that enjoyed by the Bonds, other than through the issuance of Parity Obligations, or junior lien obligations, in the manner and under the conditions provided in the Authorizing Ordinance.

SECTION 4.02. Defeasance. Notwithstanding any defeasance procedures set forth in the Authorizing Ordinance, so long as the Bonds are owned by the Department or pledged as security for any indebtedness issued by or on behalf of the Department, the Bonds may be defeased and may be deemed to be paid and shall no longer be considered outstanding under the Authorizing Ordinance and under this Loan Agreement, only in the event that the City has complied with the requirements of Chapter 14 of Title 39 of the Louisiana Revised Statutes of 1950, as amended (La. R-S. 39:1441 *et seq.*), or any successor provision thereto, to defease all remaining scheduled payments of principal, interest, premium, if any, and Administrative Fees on the Bonds.

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## ARTICLE V

### FUNDS AND ACCOUNTS

SECTION 5.01. Funds and Accounts. For the purpose of receiving purchase price payments of the Bonds and paying Costs of the Project, the City has established and agrees to maintain the Construction Fund to be administered in the manner set forth herein and in the Authorizing Ordinance. Additionally, for the payment of and further security for the principal, interest and Administrative Fee on the Bonds, the City has established and agrees to maintain the Funds and Accounts to be administered in the manner set forth in the Authorizing Ordinance.

If at any time the Department deems, in its sole discretion, that the depository for any of the aforesaid funds and accounts to be unsatisfactory for whatever reason, then the City agrees that it will transfer any or all of said funds to such depository as may be designated by the Department.

SECTION 5.02. Investments. All moneys in any of the Funds and Accounts shall be invested in investment securities permitted by State law and the Authorizing Ordinance. All income derived from such investments shall be added to the amounts in the respective funds, if required, or to the Revenue Fund or to such funds as may be designated in the Authorizing Ordinance, and such investments shall be liquidated to the extent at any time necessary to apply the proceeds thereof to the purpose for which the respective funds have been created. For the purpose of determining if the required amount is being maintained in any of the funds, such investment securities shall be valued at least annually at the lesser of amortized cost (exclusive of accrued interest) or fair market value.

SECTION 5.03. Notification of Deficiencies. The City shall notify the Department, and as required by R.S. 39:1410.62 the State Bond Commission, in writing, whenever (i) transfers to any fund required to be established by the Authorizing Ordinance or any ordinance or resolution authorizing the issuance of indebtedness of the City have not been made timely or (ii) principal, interest, premiums, or other payments due on the Bonds or any other outstanding indebtedness of the City have not been made timely.

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## ARTICLE VI

### CONSTRUCTION AND COMPLETION OF THE PROJECT

**SECTION 6.01. Plans and Specifications; Construction Contracts.** The Plans and Specifications must be submitted to the Department for approval in writing, prior to formal request for bids on a construction contract or contracts. The Plans and Specifications shall comply with all laws, regulations and ordinances including, in particular, all zoning, fire, safety and environmental laws, regulations and ordinances. Contracts for the acquisition, construction and installation of the Project shall be entered into in compliance with Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950, as amended.

As a condition of the Loan, the Borrower will demonstrate to the satisfaction of the Department before issuing an initial work order for construction, that the Borrower has or will have an ownership or such other real interest in the site(s) of the Project, including necessary servitudes and rights-of-way as the Department finds sufficient to assure undisturbed use and possession for the purpose of construction and operation of the Project for the estimated life of the Project. The Borrower agrees to provide the Department with a Site Certificate in substantially the form attached to the Commitment Agreement prior to disbursement by the Department of any Loan proceeds for construction.

The City will exercise its best efforts to initiate construction of the Project within six (6) months after the Delivery Date and in accordance with prudent public utility practice to complete the Project and to so accomplish such completion on or before the Scheduled Completion Date, and to provide from its own financial resources all moneys required to complete the Project in excess of the Loan Amount available hereunder.

**SECTION 6.02. Engineer.** Prior to signing a construction contract or contracts, the City shall name the Engineer. If so required by the Department, the Engineer shall issue prior to each disbursement request a progress report detailing construction status to date and stating whether construction is within the Project budget. Requisitions for funds during construction, in the form attached hereto as Exhibit D will be executed by the City and certified by the Engineer.

**SECTION 6.03. Compliance with Law.** If requested by the Department, the City will furnish the Department with evidence that the property and equipment constituting the System, and the proposed and actual use thereof, comply with all laws, ordinances, rules and regulations of all governmental authorities having jurisdiction over the same, including the Regulations, and that there is no action or proceeding before any court, quasi-judicial body of administrative agency at the time of any disbursement by the Department relating to the System.

The City will obtain all necessary approvals from any and all governmental agencies requisite to the completion of the Project in compliance with all federal, State and local laws, ordinances and regulations applicable thereto. Upon completion of the Project the City shall obtain all required permits and authorizations from appropriate authorities as required for operation and use of the Project as contemplated by this Loan Agreement.

In the event that archeological artifacts or historical resources are unearthed during construction excavation of the Project, the City shall stop or cause to be stopped construction activities and will notify the Department of such fact.

The City will immediately halt construction of the Project and notify the Department if any endangered species are encountered during construction so that mitigating measures can be taken in accordance with the Endangered Species Act of 1973, as amended.

The City will take and institute such proceedings as will be necessary to cause and require all contractors and materials suppliers to complete their contracts diligently and in accordance with the terms of the contracts, including without limitation, correcting any defective work.

**SECTION 6.04. Payment of Additional Costs of the Project.** In the event that Loan proceeds are not sufficient to pay the Costs of the Project in full, the City shall nonetheless complete the Project and pay that portion of the Costs of the Project as may be in excess of available Loan proceeds and shall not be entitled to any reimbursement therefor from the Department, except for the proceeds of any additional financing which may (subject to availability) be provided by the Department pursuant to application by the City.

**SECTION 6.05. Completion Certificate.** The Project will be considered complete when the provisions of Section 7.08 have been met for all construction contracts included in the Project, or upon the disbursement of the final installment of the purchase price of the Bonds, whichever occurs first, and such date will be the Completion Date for purposes of this Loan Agreement. On or as soon as practicable after the Completion Date, the City shall submit the Certificate of Substantial Completion required by Section 7.08(a) and shall certify to the Department when it has initiated or is capable of initiating operation of the Project. The City shall also ratify and confirm in writing the final principal amount of the Loan and the final principal amortization schedule for the Loan.

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## ARTICLE VII

### DISBURSEMENTS

SECTION 7.01. Disbursement of Loan Proceeds. Prior to any disbursement of Loan Proceeds, the City will prepare a budget and construction disbursement schedule which shall be updated from time to time as required by the progress of construction. Installments of the Loan, representing purchase price installments of the Bonds, shall be paid by the Department to the City under the terms of this Loan Agreement, upon receipt of a properly completed requisition in the form attached hereto as Exhibit D, subject to and conditioned upon the availability of sums on deposit in the State Revolving Fund. The City will deposit such proceeds in the Construction Fund and will utilize and expend such proceeds in a timely and expeditious manner and, in particular, will:

- (a) pay promptly all approved Costs of the Project;
- (b) proceed expeditiously with and complete the Project in accordance with Plans and Specifications, with construction reasonably expected to begin within six (6) months after the Delivery Date;
- (c) provide and maintain competent and adequate supervision and inspection of the Project;
- (d) return promptly upon written request any and all unused funds, including all costs or amounts found not eligible or disallowed by the Department; and
- (e) complete the Project within two years of the Delivery Date unless the Department gives its written approval to an extended construction period.

SECTION 7.02. Disbursement Procedure. Purchase price installments of the Bonds for the payment of Costs of the Project shall be made by the Department to the City from time to time as the construction of the Project progresses, subject to the satisfaction of the following conditions:

- (a) in connection with each disbursement, the City shall submit a requisition in the form attached hereto as Exhibit D, which requisition shall include:
  - (i) an updated copy of the disbursement schedule (if applicable);
  - (ii) the report of the Engineer, which report shall be in the form and substance satisfactory to the Department and shall state that the Project, to the best of the Engineer's knowledge, as completed as of the date of such report, has been constructed in accordance with the Plans and Specifications and that the undisbursed portion of the Loan Amount is sufficient to complete the Project in accordance with the Plans and Specifications and the disbursement schedule;

- (iii) if required by the Department, evidence satisfactory to the Department that the insurance required by Section 8.08 of this Loan Agreement remains in full force and effect;
  - (iv) such other instruments, documents, certificates, endorsements, invoices and opinions as the Department may reasonably require to substantiate the Costs of the Project for which payment is requested; and
  - (v) if the requisition is the final requisition, the Completion Certificate required by Section 6.05;
- (b) disbursements shall be made by the Department not more frequently than twice per calendar month;
- (c) each disbursement shall be subject to the review and approval of the Department, and
- (d) the amount of each disbursement shall be computed so that five (5%) percent, or such larger percentage as may be requested by the City, of such disbursement constituting eligible costs and one hundred (100%) percent of non-eligible costs will be deducted from the total amount payable as retainage or as non-eligible costs with respect to each contract for construction of the Project or any portion thereof. The total amount of retainage withheld from the disbursements during the construction of the Project with respect to each contract shall be disbursed pursuant to the provisions of Section 7.08.

SECTION 7.03. Modified Disbursement Procedure. The Department reserves the right to modify the procedures set forth in Section 7.02 in order to make disbursements directly to any contractor or to subcontractors and suppliers when it is necessary to prevent a default under any construction contract or to insure that all subcontractors, suppliers and laborers who have performed services or provided materials to the Project are paid.

SECTION 7.04. Reimbursement of Certain Costs. The City will promptly reimburse the Department for any portion of the Loan which is determined by the Department to have been expended for a cost which is not eligible for funding from the State Revolving Fund, which reimbursement will be made not more than 180 days after the discovery thereof by either the City or the Department. Such reimbursement shall be promptly paid to the Department upon written request of the Department with interest on the amount reimbursed at the rate borne by the Bonds from the later of the date of the disbursement from which any such non-eligible item was paid or the last Interest Payment Date on which the City paid interest with respect to said amounts, and shall be applied in inverse order of maturity against the outstanding principal amount of the Bonds.

SECTION 7.05. Inspections; Possession of Project. Upon the occurrence of an Event of Default, the City does hereby agree and authorize the Department, EPA, the Engineer, or any agent, officer, employee or representative of the Department or EPA to enter upon the Project to make inspections of the materials, plans, shop drawings, workmanship and construction of the Project or to enter into possession of the Project and perform any work necessary or desirable to

complete the Project and to take all other action in connection therewith, in order that the Department may:

- (a) verify that each disbursement is appropriate and in conformity with the requirements of this Article;
- (b) verify that all work covered by a proposed disbursement is in accordance with the Plans and Specifications;
- (c) determine whether there has been or may be any default of the obligations of the City under this Loan Agreement or the Authorizing Ordinance; and
- (d) take any necessary or appropriate action to insure that the Project will be completed in a timely manner and in accordance with the Plans and Specifications and the disbursement schedule.

None of the aforesaid actions by the Department or by any agent, officer, employee or representative of the Department shall be or may be construed in such a manner as to impose any duty or obligation whatsoever on the Department, the Engineer, or any agent, officer, employee or representative of the Department to protect or represent any owner, City, contractor, surety, or any other person whatsoever and shall not be considered or construed as having made any warranty whatsoever, whether express or implied, as to the adequacy, quality of fitness or purpose of any physical conditions, materials, workmanship, plans, specifications, drawings or other requirements pertaining to the Project, or whether any such physical conditions, materials or workmanship comply with any plans, specification, drawings, ordinances, statutes, or other governmental requirements pertaining to the Project.

SECTION 7.06. Conditions Precedent. It is specifically understood and agreed that the obligation of the Department to fund any disbursements for payments to contractors or suppliers (other than engineering expenses and costs of issuance of the Bonds) shall be subject to the receipt by the Department of the following items with respect to each construction contract that is entered into with respect to the Project:

- (a) a true and correct copy of all applicable construction contracts pertaining to the Project (including all amendments, addenda, supplements, modifications and related documents), which contracts shall be for a guaranteed maximum contract price satisfactory to the Department or on such terms and conditions as shall be satisfactory to the Department;
- (b) one complete set of the Plans and Specifications relating to any construction contract pertaining to the Project, which Plans and Specifications shall be in final form and shall have been approved in scope and substance by the City and the Department;
- (c) a "Notice to Proceed" statement from the City or the Engineer stating that the Engineer has reviewed and approved the disbursement schedule and that the applicable portion of the Project can be completed in accordance with such Plans and Specifications for the amounts reflected in the disbursement schedule;

(d) a certificate from the Engineer stating that the proposed use of the Project as contemplated by the Plans and Specifications is consistent with all applicable zoning ordinances and such use of the Project for the purposes contemplated thereby is permitted under all applicable zoning ordinances;

(e) a copy of any building permits, if required, issued by the applicable agency or agencies with respect to the proposed construction of the Project;

(f) a copy of any policy or policies of builder's all-risk insurance issued by an insurance company or companies acceptable to the Department, insuring the Project for its full replacement costs (or on a progressively full insured basis) with extended coverage, and said policy shall insure against such loss or damages as the Department may require;

(g) a copy of a policy of comprehensive general liability insurance, which policy shall be satisfactory to the Department in form, substance, limits and coverage;

(h) a copy of a policy of worker's compensation insurance issued in accordance with applicable law;

(i) a copy of a payment and a performance bond from a surety company acceptable to the Department; and

(j) a final site certificate.

SECTION 7.07. Conditions to all Disbursements. In addition to the requirements of Section 7.06 with respect to the initial disbursement for each construction contract that is entered into with respect to the Project, the obligation of the Department to fund the initial and all subsequent disbursements of the purchase price of the Bonds is subject to the satisfaction of the following further conditions:

(a) that as of the date of such disbursement, there has occurred no Default and no condition which, with the giving of notice or lapse of time or both, would become an Event of Default under the Bonds, any Parity Obligations or this Loan Agreement;

(b) that each of the representations, covenants and agreements of the City contained herein shall be true and correct on and as of the date of the respective disbursements;

(c) that the City shall be in full compliance with all obligations and covenants contained herein, the applicable Regulations and all other applicable State, Department and federal regulations; and

(d) that as of the date of the request for disbursement there have been no changes made to the Plans and Specifications nor any change orders executed which have not been approved by the Department.

SECTION 7.08. Conditions to Disbursement of Retainage. The disbursement by the Department of the retainage withheld pursuant to Section 7.02 shall be subject to the satisfaction of the following conditions:

(a) receipt by the Department of a certificate signed by the City and the Engineer stating that to their best knowledge the Project or applicable portion of the Project has been completed in accordance with the Plans and Specifications therefor;

(b) receipt by the Department of a copy of a lien and privilege certificate showing that no liens have been recorded encumbering the Project;

(c) if requested by the Department, receipt by the Department of a certificate of cancellation evidencing that the construction contract or contracts have been canceled and erased from the mortgage records, if applicable;

(d) receipt by the Department of a duly completed request for disbursement executed by the City covering the retainage;

(e) a certificate of the City certifying that all Costs of the Project, and all change orders and amendments to all construction contracts, have been previously submitted by the City to the Department, which certificate contains an acknowledgment by the City that no further disbursements will be due to the City from the Department;

(f) completion of a final inspection of the Project by the Department;

(g) receipt by the Department of a duly completed certificate of labor standards by the City, if applicable; and

(h) if not previously furnished by Borrower, (i) a certified copy of a duly enacted water use ordinance, (ii) a certified copy of an ordinance imposing user charges, each complying with applicable provisions of the Regulations and all other applicable State and federal regulations, which have been approved as to form and substance by the Department, (iii) evidence of final approval by the Department of an Operations & Maintenance Manual of the Borrower, and (iv) an Initiation of Operation Certificate (Form DWRLF-1044).

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## ARTICLE VIII

### OPERATION OF THE SYSTEM

SECTION 8.01. Operation of the System. The City will maintain the System in good repair and operating condition and will cooperate with the Department in the observance and performance of the respective duties, covenants, obligations and agreements of the City and the Department under this Loan Agreement.

The City will insure that the Project operates and meets minimum technical and administrative requirements in accordance with the State Sanitary Code, and the City will meet all requirements imposed by the EPA and the Department as a condition of receiving the Loan from the State Revolving Fund under the Federal Act, the State Act and any applicable Regulations.

The City will, in accordance with prudent waterworks utility treatment practice,

(a) at all times operate the properties of its System and any business in connection therewith in an efficient manner;

(b) maintain the System in good repair working order and operating condition; and

(c) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to the System so that at all times the business carried on in connection therewith shall be properly and advantageously conducted, provided, however, that this covenant shall not be construed as requiring the City to expend any funds which are derived from sources other than the operation of its System or other receipts of such System which are not pledged hereunder, and provided further that nothing herein shall be construed as preventing the City from doing so.

SECTION 8.02. Water Charges and Connections. Acting in the exercise of its police powers, the Borrower shall take all action necessary to require every owner, tenant or occupant of each lot or parcel of land within the geographical boundaries of the Borrower which abuts upon a street or other public way containing a water line and upon which lots or parcels of a building shall have been constructed for residential, commercial or industrial use, to connect said building with the System and to cease to use any other method for the supply of water which can be handled by the System. All such connections shall be made in accordance with the rules and regulations to be adopted from time to time by the Borrower, which rules and regulations may provide for an inspection charge to assure the proper making of such connection

In addition to all other rights and remedies available to be used for the enforcement of public water charges and for the compelling of the making of utility connections as aforesaid, the City covenants that it shall exercise and enforce promptly and efficiently all rights given it under the laws of the State for the enforcement and collection of such charges..

The City will not furnish or supply or cause to be furnished or supplied any use, capacity or service of the System free of charge to any person, firm, corporation (public or private), public agency or instrumentality.

SECTION 8.03. User Fees. The City will enact, maintain and enforce an ordinance or resolution imposing User Fees and will enact, maintain and enforce a utilities use ordinance or resolution or similar proceeding that satisfies the requirements of all applicable regulations. So long as the Bonds are outstanding, the City through its Governing Authority obligates itself to fix, establish, maintain, levy and collect such rates, fees, rents or other charges for services and facilities of the System and all parts thereof and to revise the same from time to time whenever necessary to always provide User Fees in each Fiscal Year sufficient to meet all requirements of the Authorizing Ordinance and at least to:

(a) pay the reasonable and necessary expenses of operating and maintaining the System in such Fiscal Year and to satisfy the requirements of Louisiana Administrative Code 33:IX.2209(C)(1), or any successor provision, that the User Fees generate sufficient revenues to cover the costs of operation, maintenance and replacement;

(b) pay debt service and Administrative Fee on the Bonds and any Parity Obligations and make all required deposits to the Funds and Accounts to the extent that such payments are not provided for from other sources of pledged revenues; and

(c) meet any coverage ratio requirement set forth in the Authorizing Ordinance.

SECTION 8.04. Annual Review of User Fees. At least annually, but in no event later than six (6) months after the close of the previous Fiscal Year, the City shall review the adequacy of its User Fees to satisfy the requirements of Section 8.03 for the next succeeding Fiscal Year. The Borrower shall prepare a report of such review stating the Borrower's opinion regarding the adequacy or inadequacy of the existing User Fees to satisfy the requirements of Section 8.03 and what action the Borrower will take to satisfy such requirements, if any, and shall furnish a copy of such report to the Department upon its completion.

If such review indicates that the User Fees are, or are likely to be, insufficient to meet the requirements of Section 8.03 for the next succeeding Fiscal Year, or if it otherwise appears at any time during such Fiscal Year that User Fees are or are likely to be insufficient to meet such requirements, the City shall promptly take such steps as are necessary to cure or avoid the deficiency.

SECTION 8.05. Financial Records; Annual Audit. The City will establish and maintain adequate financial records as required by the laws of the State governing financial record-keeping by political subdivisions and in accordance with generally accepted accounting principles ("GAAP") and will make these and the following records and reports available to the Department and EPA or their authorized representatives upon request.

The City will cause an audit of its financial statements to be made by an independent firm of certified public accountants in accordance with the requirements of Chapter 8 of Title 24 of the Louisiana Revised Statutes of 1950, as amended, and in accordance with the requirements of Circular A-133 of the U.S. Office of Management and Budget, and Section 66.468 of the Catalog of Federal Domestic Assistance (CFDA Publication #66.468 - Capitalization Grants for State Revolving Funds) if applicable. The City and its auditor have furnished a certification, attached hereto as Exhibit E, acknowledging the requirements of Circular A-133.

Upon completion, but in no event later than six (6) months after the close of the applicable Fiscal Year, the City shall file a copy of such audited financial statements with the Department. In addition to whatever matters may be thought proper by the auditors to be included therein, the audited financial statements shall include the following:

- (a) a statement in detail of the income and expenditures of the System for such Fiscal Year,
- (b) a balance sheet of the System as of the end of such Fiscal Year;
- (c) the accountant's comments regarding the manner in which the City has carried out the requirements of the Authorizing Ordinance and this Loan Agreement and the accountant's recommendations for any changes or improvements in the operation of the System or the method of keeping the records relating thereto;
- (d) a list of the insurance policies in force at the end of the Fiscal Year, setting out as to each policy the amount of the policy, the risks covered, the name of the insurer and the expiration date of the policy;
- (e) the number of System users at the end of the Fiscal Year;
- (f) an analysis of additions, replacements and improvements to the physical properties of the System during the Fiscal Year;
- (g) an analysis of all funds created pursuant to the Authorizing ordinance setting out as to each all deposits and disbursements made during the Fiscal Year;
- (h) a statement of all schedules of User Fees in effect during the Fiscal Year, the aggregate dollar billed for services rendered by the System during such Fiscal Year and the average monthly billing per user; and
- (i) a schedule of fixed assets, if not provided elsewhere in the audit report.

A reasonable portion of the expenses incurred in the preparation of the audit report required by this Section may be regarded and paid as a maintenance and operation expense of the System. The City further agrees that the Department shall have the right to ask for and discuss with the accountant making the review and the contents of the review and such additional information as it may reasonably require. The City further agrees to furnish to the Department, upon request therefor, a monthly statement itemized to show the income and expenses of the operation of the System and the number of users for the preceding month.

SECTION 8.06. Consulting Engineer. The City will submit over the life of the Loan sufficient information as is reasonably requested by the Department to demonstrate that the City has legal, institutional, managerial and financial capability to ensure the construction, operation and maintenance of the Project and the System and the repayment of the Loan, interest and administrative fees.

To this end, the City may retain an Engineer, but shall be required to do so only in accordance with provisions of this section and Section 10.04, for the purpose of providing the City with continuous engineering counsel in the operation of the System. The Engineer shall be retained under contract at such reasonable compensation as may be fixed by the City, and the payment of such compensation shall be considered to be one of the costs of maintaining and operating the System. Any Engineer appointed under the provisions of Section 10.04 may be replaced at any time by another Engineer appointed or retained by the City upon written notice to the Department.

Upon the occurrence of an Event of Default, or if requested in writing by the Department, the City shall prepare, or shall have the Engineer prepare within one hundred eighty (180) days after the close of each Fiscal Year a comprehensive operating report which shall contain therein or be accompanied by a copy of the audit required by Section 8.05, and in addition thereto shall report upon the operation of the System during the preceding Fiscal Year, the maintenance of the properties, the efficiency of the management of the property, the proper and adequate keeping of the books of account and record, the adherence to budget and budgetary control provisions, all matters bearing upon the sufficient and profitable operation of the System, and shall include whatever criticism of any phase of the operation of the System the City or the Engineer, as the case may be, may deem proper and such recommendation as to changes in the operation and the making of repairs, renewals, replacements, extensions, betterments and improvements as the City or Engineer may deem proper. Copies of such report shall be furnished to the Department upon written request. It shall be the duty of the Engineer, if retained in accordance with this Section, to determine the economic soundness or feasibility of any extensions, betterments, improvements, expenditures or purchases of equipment and materials or supplies, which will involve the expenditure of more than Twenty-Five Thousand Dollars (\$25,000), whether in one or more than one order, and whether from funds on deposit in the Contingencies Fund.

SECTION 8.07. Prohibition Against Liens. Except as provided in Section 11.02, the City will maintain title to or the possession of the System and equipment acquired and properties improved by the Project, including any necessary servitudes and rights-of-way acquired in connection with the Project. Title to any immovable equipment and any real property purchased by the City in connection with the Project will remain free and clear of all liens and encumbrances. Furthermore, all movable property necessary for the operation of the System will remain free of all liens except liens necessary to secure the purchase of said movable equipment.

SECTION 8.08. Insurance. So long as the Bonds are Outstanding the City will maintain or cause to be maintained in force insurance policies with responsible insurers or self insurance programs providing against risk of direct physical loss, damage or destruction of the System at least to the extent that similar insurance is usually carried by utilities constructing, operating and maintaining facilities similar in nature to the System, including liability coverage, all to the extent available at reasonable cost. In case of loss, any insurance money received by the City shall be used for the purpose of promptly repairing or replacing the property damaged or destroyed or shall be deposited in the Contingencies Fund to supplement any other amounts required to be paid into said Fund.

SECTION 8.09. Fidelity Bonds. So long as the Bonds are Outstanding the City, in operating the System, shall require all of its officers and employees who may be in a position of

authority or in possession of money derived from the operation of the System to obtain or be covered by blanket or faithful performance bond, or independent fidelity bonds, written by a responsible indemnity company in amounts adequate to protect the City from loss.

SECTION 8.10. Competitive Franchises. So long as the Bonds are Outstanding the City obligates itself not to grant a franchise to any utility for operation within the boundaries of the City which would render services or facilities in competition with the System, and also obligates itself to oppose the granting of any such franchise by any other public body having jurisdiction over such matters. Further, the City shall maintain its corporate identity and existence so long as any of the Bonds remain outstanding.

SECTION 8.11. Equal Opportunity. The City will comply with all federal and State laws pertaining to equal employment opportunities insuring that all engineers and contractors for this Project not discriminate against any person on the basis of race, color, sex, religion, age, national origin or handicap.

SECTION 8.12. Access to Books. The Department and the EPA or their authorized representative shall have access to the Project and to the City's administrative offices, books, records, reports, design documents, contract documents and similar documents at any reasonable time. The City hereby covenants and agrees that the City shall cause its engineers and contractors to cooperate during Project inspections, including making readily available books, records, current working copies of plans and specifications and supplementary materials and further consents and agrees that the City will allow inspections and examinations by the Department, and EPA during construction and periodically over the term of the Loan.

## ARTICLE IX

### PARITY OBLIGATIONS

SECTION 9.01. Issuance of Additional Parity Obligations. Additional Parity Obligations may be issued in accordance with the provisions of and subject to the terms and conditions imposed by the Authorizing Ordinance, and with the prior written consent of the Department, to complete the acquisition and construction of the Project, to make additional improvements to the System or to refund or refinance any portion of the Loan or other Parity Obligations. Such consent shall not be necessary if all of the Bonds will be refunded with such additional Parity Obligations.

SECTION 9.02. Junior and Subordinate Lien Obligations. Junior and subordinate lien Obligations may be issued by the City at any time without restriction upon written notice thereof to the Department.

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## ARTICLE X

### DEFAULTS AND REMEDIES

SECTION 10.01. Events of Default. Each of the following events is defined as and declared to be and to constitute an "Event of Default" hereunder:

(a) Failure by the City to pay, or cause to be paid, the principal of or interest on the Bonds or any other amount payable on the Loan other than the payment of the Administrative Fee when due;

(b) Failure by the City to pay, or cause to be paid, the Administrative Fee or any portion thereof when due;

(c) Failure by the City to observe and perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in subsections (a) or (b) above, which failure shall continue for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied is given to the City by the Department, unless the Department shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the failure stated in such notice is correctable but cannot be corrected within the applicable period, the Department may not unreasonably withhold its consent to an extension of such time up to sixty (60) days from the delivery of the written notice referred to above if corrective action is instituted by the City within the applicable period and diligently pursued until the Event of Default is corrected;

(d) If any representation made by or on behalf of the City contained in this Loan Agreement, or in any instrument furnished in compliance with or with reference to this Loan Agreement or the Loan or in connection with the Bonds, is determined to be false or misleading in any material respect; or

(e) A petition is filed by or against the City under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Loan Agreement or hereafter enacted, unless in the case of any such petition filed against the City such petition shall be dismissed within thirty (30) days after such filing and such dismissal shall be final and not subject to appeal, or the City shall become insolvent or bankrupt or make an assignment for the benefit of its creditors; or a custodian (including, without limitation, a receiver, liquidator or trustee of the City or any of its property) shall be appointed by court order to take possession of the City or its property or assets if such order remains in effect or such possession continues for more than thirty (30) days.

SECTION 10.02. Notice of Default. The City shall give the Department prompt notice, by telephone, fax or electronic mail, of the occurrence of any Event of Default and of the occurrence of any other event or condition that constitutes an Event of Default. Any telephone notice pursuant to this Section shall be confirmed in writing by the end of the next business day.

SECTION 10.03. Remedies on Default. Until an event of default shall have occurred, the City shall retain full possession and control of the System with the full right to manage, operate and use the same and every part thereof with rights appertaining thereto, and to collect

and receive, and subject to the provisions of this Loan Agreement, to take, use, enjoy and distribute the earnings, income and profits accruing or derived from the System.

However, when an Event of Default shall have occurred and be continuing the Department shall have the right to take any action permitted or required pursuant to this Loan Agreement or the Authorizing Ordinance and to take whatever other action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce the performance and observance of any duty, covenant, obligation or agreement of the City hereunder, including, without limitation, obtaining the appointment of a receiver of the System in an appropriate judicial proceeding in a court of competent jurisdiction.

SECTION 10.04. Appointment of Engineer; Required Reports. In the event that the City should fail to derive sufficient User Fees from the operation of the System to make the monthly payments into the Funds and Accounts, as required in the Authorizing Ordinance, or in the event of an Event of Default hereunder, then it will retain an Engineer in the manner provided in the Authorizing Ordinance.

SECTION 10.05. Appointment of Receiver. In the event that the Department obtains the appointment of a receiver after the occurrence of an Event of Default, such receiver shall, in the performance of the powers conferred upon him, be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby and a successor receiver appointed in the discretion of the court.

Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided shall hold and operate the System in the name of the City and for the joint protection and benefit of the City, any owners of Parity Obligations and the Department. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System and the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the City, any owners of Parity Obligations and the Department and the curing and making good of any Default. In such case, title to and the ownership of the System shall remain in the City, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage, or otherwise dispose of any assets of the System except with the consent of the City and in such manner as the court shall direct.

SECTION 10.06. Attorney's Fees and Other Expenses. The City shall, on demand, pay to the Department the reasonable fees and expenses of attorneys and other reasonable expenses (including without limitation the reasonably allocated costs of in-house counsel and legal staff) incurred by the Department in the collection of delinquent Loan repayments or any other sum due hereunder or in the enforcement of performance or observation of any other duties, covenants, obligations or agreements of the City hereunder, under the Authorizing Ordinance or under any other agreements relating to the Bonds.

SECTION 10.07. Application of Moneys. Any moneys collected by the Department pursuant to Section 10.03, after payment of the costs of operation and maintenance of the System, shall be applied

- (a) first to pay interest due and payable on the Loan;
- (b) second, to pay principal due and payable on the Loan;
- (c) third, to pay any fees and expenses owed by the City pursuant to Section 10.06;
- (d) fourth, to pay any other amounts due and payable under this Loan Agreement; and
- (e) fifth, to pay any other amounts payable hereunder, including Administrative Fees, as such amounts become due and payable.

SECTION 10.08. No Remedy Exclusive; Waiver; Notice. No remedy herein conferred upon or reserved to the Department is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other given under this Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. To entitle the Department to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article.

SECTION 10.09. Retention of Department's Right. Notwithstanding any assignment or transfer of this Loan Agreement pursuant to the Section 11.01 or otherwise, and anything else to the contrary contained herein, the Department shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the City at law or in equity, as the Department may, in its discretion, deem necessary to enforce the obligations of the City to the Department.

SECTION 10.10. Default by Department. In the event of any default by the Department under any duty, covenant, agreement or obligation of this Loan Agreement, the City's remedy for such default shall be limited to injunction, special action, action for specific performance or any other available legal or equitable remedy designed to enforce the performance or observance of any duty, covenant, obligation or agreement of the Department hereunder as may be necessary or appropriate.

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## ARTICLE XI

### ASSIGNMENT

SECTION 11.01. Assignment, Transfer or Sale by the Department. The City hereby approves and consents to any assignment, transfer or sale of this Loan Agreement and/or the Bonds by the Department including but not limited to any such assignment or transfer in connection with the issuance by or on behalf of the Department of bonds, notes or other debt obligations. The City hereby further approves and consents to any assignment or pledge by the Department of payments due from the City pursuant to this Loan Agreement and the Bonds as security or partial security for the payment of principal and interest on such bonds, notes or other debt obligations issued by or on behalf of the Department. The City agrees to cooperate with the Department in accomplishing any such assignment, including execution of any additional certificates or documents as may be reasonably required by the Department.

SECTION 11.02. Assignment, Transfer or Sale by City. Neither this Loan Agreement nor the Project may be assigned, transferred or sold by the City for any reason, unless the following conditions shall be satisfied:

- (a) the Department shall have approved said assignment, transfer or sale in writing;
- (b) the assignee or transferee shall be a governmental unit within the meaning of Section 141(c) of the Code, unless the Department shall have received the opinion described in (d) below notwithstanding the fact that the assignee or transferee is not a governmental unit, and the assignee shall have expressly assumed in writing the full and faithful observance and performance of the City's duties, covenants, agreements and obligations under this Loan Agreement;
- (c) immediately after such assignment, transfer or sale, the assignee or transferee shall not be in default in the performance or observance of any duties, covenants, obligations or agreements of the City hereunder or under the Authorizing Ordinance;
- (d) the Department shall have received an opinion of its bond counsel to the effect that such assignment, transfer or sale will not or would not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes under the Code;
- (e) if applicable, the Department shall have received an opinion of its bond counsel to the effect that such assignment, transfer or sale will not adversely affect the exclusion of interest on any bonds, notes, or other debt obligations issued by or on behalf of the Department from gross income for federal income tax purposes under the Code or affect the ability of the Department to repay or cause to be repaid any such bonds, notes or other debt obligations; and
- (f) the Department shall receive an opinion of its counsel to the effect that such assignment, transfer or sale will not violate the provisions of any agreement entered into by the Department with, or condition of any grant received by the Department from, the United States of America relating to any capitalization grant received by the Department or the State under the Federal Act or the Regulations.

No assignment, transfer or sale shall relieve the City from primary liability for any of its obligations under this Loan Agreement and in the event of such assignment, the City shall continue to remain primarily liable for the performance and observance of its obligations to be performed and observed under this Loan Agreement.

Notwithstanding the foregoing, the City may dispose of property which in its reasonable judgment is worn out unservicable, unsuitable, or unnecessary in the operation of the System, when other property of equal value is substituted therefor, or the proceeds derived from the disposal of such property are deposited in a Contingencies Fund or used to prepay or redeem the Bonds.

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## ARTICLE XII

### MISCELLANEOUS

SECTION 12.01. Payment of Department Expenses. The City agrees to pay at the Delivery Date all fees and expenses incurred by the Department in connection with the Loan which shall include the payment of all attorneys' fees and expenses of Adams and Reesc, L.L.P, bond counsel to the Department, approved by the Department in connection with the Loan.

SECTION 12.02. Consents and Approvals. Whenever the written consent or approval of the Department shall be required under the provisions of this Loan Agreement, such consent or approval may only be given by the Secretary or the Assistant to Secretary, Office of Management and Finance unless otherwise provided by law or by rules or regulations of the Department or executive order of the Secretary of the Department.

SECTION 12.03. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered or sent by registered or certified mail, postage prepaid, or by overnight courier service to the City and to the Department at the addresses shown in the appearances to this Loan Agreement. Either of the foregoing parties may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent by notice in writing given to the other party, and may accept notices by facsimile or electronic mail.

SECTION 12.04. Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the Department and the City and their respective successors and assigns.

SECTION 12.05. Severability. In the event any provision of this Loan Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

SECTION 12.06. Amendments, Supplements and Modifications. This Loan agreement may be amended, supplemented or modified in writing with the consent of both the Department and the City.

SECTION 12.07. Execution in Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which constitute but one and the same instrument.

SECTION 12.08. Applicable Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State of Louisiana.

SECTION 12.09. Captions. The captions or headings in this Loan Agreement are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions or sections of this Loan Agreement.

SECTION 12.10. Further Assurances. The City agrees, at the request of the Department to authorize, execute, acknowledge and deliver such further resolutions, ordinances, conveyances, transfers, assurances, financing statements and other instruments as may be

necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights and agreements granted or intended to be granted by the City under this Loan Agreement.

SECTION 12.11. City to Cooperate in Rating and Issuance of Department's Bonds. The City acknowledges that the Department may assign the Bonds and this Loan Agreement as security for the payment of bonds issued by or on the Department's behalf, and that in order to facilitate the rating of any such bonds City shall furnish to the Department, any issuer of any such bonds, or any nationally recognized rating agency, such documents and financial reports as may be reasonably required to obtain a rating for such bonds. Further, City agrees to perform such acts and execute such further documents and certificates as may be reasonably required by the Department in connection with the issuance of any such bonds.

SECTION 12.12. City's Continuing Disclosure Obligations. The City hereby acknowledges and agrees that even though the Bonds are initially exempt from the continuing disclosure requirements of Rule 15c2-12(b)(5) of the Securities and Exchange Commission (the "Rule") pursuant to section (d)(1) and/or other exemptions to the Rule, in the event the Department should transfer the Bonds or the Bonds become a source of repayment of "municipal securities" sold through a "primary offering" (as both terms are defined and used in the Rule), it is possible that the City could constitute an "obligated person" as defined and used in the Rule. In that case, the City agrees to comply with the continuing disclosure requirements of the Rule.

**[SIGNATURES ON NEXT PAGE]**

IN WITNESS WHEREOF, the Department and the City have caused this Loan Agreement to be executed, sealed and delivered on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, but dated for convenience of the parties as of the date first above-written.

LOUISIANA DEPARTMENT OF HEALTH  
AND HOSPITALS, Office of Public Health

By: \_\_\_\_\_  
Assistant Secretary

CITY OF NATCHITOCHEs, STATE OF  
LOUISIANA

ATTEST:

By: Carol S. Steadman  
Clerk

By: Wayna McCullum  
Mayor

(SEAL)

**EXHIBIT A**  
**to Loan and Pledge Agreement**

**DESCRIPTION OF PROJECT**

**EXHIBIT B**  
**to Loan and Pledge Agreement**

**ESTIMATED PRINCIPAL REPAYMENT SCHEDULE**

**EXHIBIT C**  
**to Loan and Pledge Agreement**

**ESTIMATED COSTS OF THE PROJECT**

**EXHIBIT D**  
**to Loan and Pledge Agreement**

**FORM OF REQUISITION**

**EXHIBIT E**  
**to Loan and Pledge Agreement**

**ACKNOWLEDGEMENT OF  
OMB CIRCULAR A-133 REQUIREMENTS  
(for governmental and non-profit borrowers)**

The undersigned officer of the City of Natchitoches, State of Louisiana (the "City"), together with the undersigned certified public accountant, hereby represent and acknowledge as follows:

1. This certification is being executed in connection with the issuance and delivery by the City of its \$5,000,000 Utilities Revenue Bonds, Series 2009, which bonds are being purchased by the Drinking Water Revolving Loan Fund administered by the Louisiana Department of Health and Hospitals (the "Fund"), and represent the City's obligation to repay a loan from the Fund (the "Loan").
2. The undersigned certified public accountant is currently performing, has performed or is engaged to perform an annual audit of the City's financial statements.
3. By virtue of undertaking the aforesaid Loan from the Department, the City and the undersigned certified public accountant acknowledge that for any fiscal year during which the City has received installments of Loan proceeds from the Department, the City's audited financial statements must comply with the requirements of the Single Audit Act Amendments of 1996, and OMB Circular No. A-133, all as more further described in the Catalog of Federal Domestic Assistance (CFDC) Publication #66.458.
4. With respect to fiscal years after City has received any Loan proceeds and completed construction of the project, and when City's only ongoing financial activity with respect to the Fund is the payment of principal and interest on outstanding balances, the prior balances are not considered to have continuing compliance requirements under Circular A-133. Such loans that do not have continuing compliance requirements other than to repay the loans are not considered Federal awards expended and therefor are not required to be audited under Circular A-133. However, the undersigned acknowledge that in such fiscal years its audited financial statements may be required to comply with Circular A-133 by virtue of receiving federal funds from sources other than the Fund, and the City undertakes to make an annual determination of whether or not such compliance will be required.
5. The City agrees that it will undertake to notify any successor auditor of the requirements described in 3 and 4 above.

CITY OF NATCHITOCHEES, STATE OF  
LOUISIANA

By: Wayne McCullen  
Title: \_\_\_\_\_

NAME OF AUDITOR:  
\_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

The meeting continued with Bids, as follows:

Mr. Mims made a motion that bids be opened and the Mayor Authorized to Award the Bid for the Purchase of a Thirty-Seven Foot (37') Articulating Aerial Device/ Bucket Truck, being Ordinance 45. The motion was seconded by Mr. Nielsen.

This motion was then presented for a vote, and the vote was recorded as follows:

AYES: Mims, Nielsen, McCain, Morrow, Payne  
NAYS: None  
ABSENT: None

The Mayor declared the motion as PASSED.

The following Ordinance was Introduced by Mr. Mims and Seconded by Mr. Nielsen as follows, to-wit:

**ORDINANCE NO. 045 OF 2009**

**ORDINANCE AUTHORIZING THE MAYOR TO OPEN BIDS FOR  
THE PURCHASE OF A THIRTY-SEVEN FOOT (37)  
ARTICULATING AERIAL DEVICE/BUCKET TRUCK**

**(BID NO. 0483)**

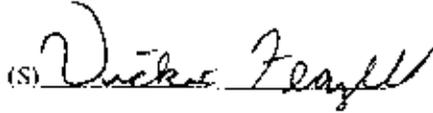
# AFFIDAVIT OF PUBLICATION

STATE OF LOUISIANA

Parish of Natchitoches

Before me, a Notary Public, personally came and appeared Vickie Feazell who, being duly sworn, did depose and say that she/he is Legal Typist for The *Natchitoches Times*, a newspaper of general circulation published within the Parish of Natchitoches, and that **City of Natchitoches – Bid 0483 #482-09** as per copy attached hereto, was published in said newspaper in the issues of 7/17 & 7/21/09

**BID INVITATION**  
**DATE:** 13 July 2009  
**FROM:**  
City of Natchitoches  
Purchasing Department  
1400 Sabine Street  
Natchitoches, LA 71457

(S) 

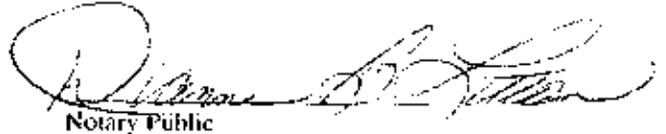
**BID NO. 0483**  
**BID TITLE:** 37 Articulating  
Aerial Device - Bucket Truck

SEALED BID PROPOSALS  
WILL BE RECEIVED  
UNTIL 4PM August 10,  
2009 AT THE OFFICE OF  
Edd Lee DIRECTOR OF  
PURCHASING 1400  
SABINE STREET  
NATCHITOCHEs LA  
71457.

SW before me this 21<sup>st</sup> day of July, 2009.

FOR ADDITIONAL  
INFORMATION CONTACT  
THE FOLLOWING

Edd Lee  
DIRECTOR OF PURCHAS-  
ING (318) 357-3824  
#482-09 7/17, 21

  
Notary Public

Dianne B. Litton  
#015767

The following Resolution was introduced by Mr. Mims and Seconded by Mr. Nielsen as follows, to-wit:

**RESOLUTION NO. 074 OF 2009**

**A RESOLUTION AUTHORIZING THE MAYOR TO ADVERTISE AND ACCEPT BIDS FOR THE PURCHASE OF A THIRTY-SEVEN FOOT (37') ARTICULATING AERIAL DEVICE/BUCKET TRUCK**

**(BID NO. 0483)**

**WHEREAS**, the City wishes to advertise for Public Bids for the purchase of a thirty-seven foot (37') Articulating Aerial Device/Bucket Truck (Bid No. 0483), and

**WHEREAS**, sealed bid proposals will be received until **4:00 P.M.** on **Monday, August 10, 2009** at the office of Edd Lee, Director of Purchasing, City of Natchitoches Purchasing Department, 1400 Sabine Street, Natchitoches, Louisiana; and

**WHEREAS**, bids will be publicly opened and read aloud on **Monday, August 10, 2009** at **7:00 P.M.** during the Natchitoches City Council regularly scheduled meeting; and

**WHEREAS**, upon receipt of proposals the committee of Pat Jones, Director of Finance; Edd Lee, Director of Purchasing; Jack McCain, Councilman; and Bryan Wimberly, Director of Utilities, are to review and make a recommendation of the bids received

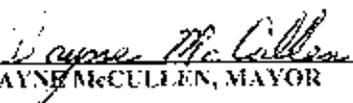
**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Natchitoches, in legal session convened, that the Honorable Wayne McCullen, Mayor, be and is hereby authorized, empowered and directed to order the publication of the above bid.

**BE IT FURTHER RESOLVED** that the above bids will be awarded at a regularly scheduled meeting of the City Council on August 24, 2009.

This Resolution was then presented for a vote, and the vote was recorded as follows:

<b>AYES:</b>	<b>Mims, Nielsen, McCain, Morrow, Payne</b>
<b>NAYS:</b>	<b>None</b>
<b>ABSENT:</b>	<b>None</b>
<b>ABSTAIN:</b>	<b>None</b>

**THEREUPON**, the Mayor, Wayne McCullen, declared the Resolution passed by a vote of 5 ayes to 0 nays, this the 13<sup>th</sup> day of July, 2009.

  
\_\_\_\_\_  
WAYNE McCULLEN, MAYOR

## **BID INVITATION**

**DATE: 13 July 2009**

**FROM:** City of Natchitoches  
Purchasing Department  
1400 Sabine Street  
Natchitoches, LA 71457

**BID NO. 0483**

**BID TITLE:** 37' Articulating Aerial Device / Bucket Truck

SEALED BID PROPOSALS WILL BE  
RECEIVED UNTIL 4PM,

**August 10, 2009**

AT THE OFFICE OF Edd Lee  
DIRECTOR OF PURCHASING, 1400  
SABINE STREET, NATCHITOCHES, LA  
71457.

FOR ADDITIONAL INFORMATION  
CONTACT THE FOLLOWING:

Edd Lee  
DIRECTOR OF PURCHASING  
(318) 357-3824

Mr. McCain and Mr. Mims opened the bids for the Purchase of a Thirty-Seven Foot (37') Articulating Aerial Device/Bucket Truck, bid 0483, as follows:

- |    |                                                  |              |
|----|--------------------------------------------------|--------------|
| 1) | Global Rental Company<br>Birmingham, Alabama     | \$ 94,478.00 |
| 2) | Hixson-Hopkins Autoplex<br>Alexandria, Louisiana | \$ 96,917.00 |

A committee was appointed to evaluate the bids and report back at the next Council meeting consisting of:

Mr. Pat Jones, Director of Finance  
Mr. Bryan Wimberly, Director of Utilities  
Mr. Edd Lee, Director of Purchasing  
Councilman Jack McCain

Bids continued, as follows:

The Following Resolution was Introduced by Mr. Mims and Seconded by Mr. Payne as follows, to-wit:

**RESOLUTION NO. 084 OF 2009**

**A RESOLUTION AUTHORIZING THE MAYOR  
TO ADVERTISE FOR BIDS FOR POTASSIUM  
PERMANGANATE, 25kg CONTAINERS ONLY,  
FOR THE WATER TREATMENT PLANT**

**BID NO. 0485**

**WHEREAS**, the City wishes to advertise for bids for Potassium Permanganate, 25 kg containers only, 40 tons approximately, for the Water Treatment Plant; and

**WHEREAS**, sealed bid proposals will be received until 4:00 p.m. on September 14, 2009 at the office of Edd Lee, Director of Purchasing, 1400 Sabine Street, Natchitoches, Louisiana and opened at a regular city council meeting on September 14, 2009 at 7:00 p.m.; and

**WHEREAS**, upon receipt of the proposals, the committee of Pat Jones, Director of Finance; Edd Lee, Director of Purchasing; Larry Payne, Councilman; and Bryan Wimberly, Director of Utilities, are to review and make a recommendation of the binds received.

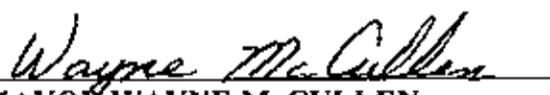
**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Natchitoches, in legal session convened, that the Honorable Wayne McCullen, Mayor, be and is hereby authorized, empowered and directed to order the publication of the above Bid.

**BE IT FURTHER RESOLVED** that the above Bids will be received until 4:00 p.m. at the office of the Director of Purchasing, 1400 Sabine Street, Natchitoches, La, and opened at a Regular Meeting of the Natchitoches City Council on September 14, 2009 at 7:00 p.m. and awarded at a regularly scheduled City Council meeting on September 28, 2009.

This Resolution was then presented for a vote, and the vote was recorded as follows:

<b>AYES:</b>	Mims, Payne, Nielsen, McCain, Morrow
<b>NAYS:</b>	None
<b>ABSENT:</b>	None
<b>ABSTAIN:</b>	None

**THEREUPON**, the Mayor, Wayne McCullen, declared the Resolution passed by a vote of 5 ayes to 0 nays, this the 10<sup>th</sup> day of August, 2009.

  
MAYOR WAYNE McCULLEN

## **BID INVITATION**

**DATE: August 10, 2009**

**FROM:** City of Natchitoches  
Purchasing Department  
1400 Sabine Street  
Natchitoches, LA 71457

**BID NO.** 0485

**BID TITLE: Potassium Permanganate – Water Treatment Plant**

SEALED BID PROPOSALS WILL BE  
RECEIVED UNTIL 4PM,

**September 14, 2009**

AT THE OFFICE OF EDD LEE,  
DIRECTOR OF PURCHASING, 1400  
SABINE STREET, NATCHITOCHES, LA  
71457.

FOR ADDITIONAL INFORMATION  
CONTACT THE FOLLOWING:

Edd Lee  
DIRECTOR OF PURCHASING  
(318) 357-3824

## INSTRUCTIONS TO BIDDERS

1. Sealed bid proposals **must** be received on the Bid Proposal Form, Page #3 or attachments thereto prior to opening date and time to be considered. **Please Note: Bids must be submitted on the supplied forms or attachments to be considered.** Late proposals will be returned unopened. Bids will be opened during the City Council meeting which begins at 7 PM.
2. Bids shall be plainly marked as to the bid number, name of the bid, and bid opening date on the outside of the envelope **contained in this package for this purpose.** This supplied envelope will be completely sealed and mailed or delivered to the Purchasing Department, 1400 Sabine Street, Natchitoches, LA 71457.
3. Any submitted article deviating from the specifications **must** be identified and have full descriptive data accompanying same, failure to provide the appropriate information **shall** be just cause for rejection of the bid. Deviations **must** be submitted on separate sheet or sheets.
4. All work and supplies are to be quoted FOB Natchitoches and delivered to the **City Water Treatment Remote Input Facility, located at 5969 Highway 1 Bypass, west of Brookshire's Grocery Store, Monday thru Friday, 7:00 AM to 3PM only.**
5. The City of Natchitoches reserves the right to reject any and all bids, requires submitted bids remain in force for a period of sixty (60) days after opening or until award is made, which ever comes first.
6. Prices quoted shall include all transportation and delivery costs.
7. The Purchasing Department assumes responsibility for the correctness and clarity of the bid, and all information and/or questions pertaining to this bid shall be directed to the Director of Utilities, 318-357-3850.
8. The conditions and terms of this bid will be considered when evaluating for award. Please be aware that the City will order "on an as needed Basis" for the duration of this award. The quantity listed on page #3 is approximate and not final.
9. The City of Natchitoches is exempt from all state taxes.
10. Please be reminded, this bid covers only 25Kg containers.
11. Contact is to be made directly to the control room of the treatment plant prior to delivery. This area is in a controlled location. Direct phone access: 318-357-3888 to schedule a date and time for delivery.

BID PROPOSAL

PLEASE MARK YOUR SEALED BID ENVELOPE: BID NO. 0485

DESCRIPTION	QUANTITY	PRICE
<b>Potassium Permanganate 25 Kg Containers Only</b>	<b>40 Tons (approx)</b>	<b>\$ lb.</b>

The price quoted shall be in effect from October 1, 2009 thru September 30, 2010.

ALL ITEMS LISTED IN THIS BID WILL BE DELIVERED TO:  
CITY OF NATCHITOCHEs, City Water treatment remote input facility located at 5969  
Highway 1 By-Pass, west of Brookshire's, Natchitoches, LA 71457.

BIDDER MUST COMPLETE THE FOLLOWING

PRICES HELD FIRM FOR DURATION OF CONTRACT:      YES      NO  
PRICES HELD FIRM FOR A PERIOD OF:      CALENDER DAYS  
BID ACCEPTANCE PERIOD OF:      CALENDER DAYS  
DISCOUNT TERMS:      PER CENT (%)  
DELIVERY WILL BE COMPLETED WITHIN:      CALENDER DAYS AFTER  
RECEIPT OF CONTRACT, ORDER OR OTHER FORM AS NOTICE OF AWARD.

THE UNDERSIGNED BIDDER DECLARES THAT HE HAS SPECIFIC AND LEGAL  
AUTHORIZATION TO OBLIGATE HIMSELF AND /OR HIS FIRM TO THE TERMS  
OF THIS BID AND FURTHER THAT HE HAS EXAMINED THE INVITATION TO  
BID, THE INSTRUCTIONS TO BIDDERS AND THE SPECIFICATIONS AND  
HEREBY PROMISES AND AGREES THAT IF THIS BID IS ACCEPTED HE WILL  
FAITHFULLY FULFILL THE TERMS OF THIS BID TOGETHER WITH ALL  
GUARANTEES AND WARRENTIES RELATING THERETO. ANY AND ALL  
EXCEPTIONS HAVE BEEN NOTED WITHIN.

_____	_____
BIDDER	MAILING ADDRESS
_____	_____
SIGNATURE	CITY STATE/ZIP
_____	_____
TYPE/PRINT NAME	DATE
_____	_____
TELEPHONE	TITLE

The Following Resolution was Introduced by Mr. Mims and Seconded by Mr. Nielsen as follows, to-wit:

**RESOLUTION NO. 085 OF 2009**

**A RESOLUTION AUTHORIZING THE MAYOR  
TO ADVERTISE AND ACCEPT BIDS FOR TWO (2) 69KV CIRCUIT  
BREAKERS FOR THE DIXIE STREET SUBSTATION**

**(BID NO. 0486)**

**WHEREAS**, the City wishes to advertise for Public Bids for two (2) 69KV Circuit Breakers for the Dixie Street Substation, (Bid No. 0486).

**WHEREAS**, sealed bid proposals will be received until 4:00 P.M. on September 14, 2009 at the office of Edd Lee, Director of Purchasing, 1400 Sabine Street, Natchitoches, Louisiana 71457 and opened at the City Council meeting at 716 Second Street, Natchitoches, Louisiana 71457 on September 14, 2009 at 7:00 P.M.

**WHEREAS**, upon receipt of proposals the committee of Pat Jones, Director of Finance; Edd Lee, Director of Purchasing; Larry Payne, Councilman; and Bryan Wimberly, Director of Utilities are to review and make a recommendation of the bids received.

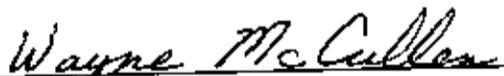
**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Natchitoches, in legal session convened, that the Honorable Wayne McCullen, Mayor, be and is hereby authorized, empowered and directed to order the publication of the above bid.

**BE IT FURTHER RESOLVED** that the above bids will be awarded at a regularly scheduled meeting of the City Council on September 28, 2009.

This Resolution was then presented for a vote, and the vote was recorded as follows:

<b>AYES:</b>	<b>Mims, Nielsen, McCain, Morrow, Payne</b>
<b>NAYS:</b>	<b>None</b>
<b>ABSENT:</b>	<b>None</b>
<b>ABSTAIN:</b>	<b>None</b>

**THEREUPON**, the Mayor, Wayne McCullen, declared the Resolution passed by a vote of 5 ayes to 0 nays, this the 10<sup>th</sup> day of August, 2009.

  
WAYNE McCULLEN, MAYOR

## **BID INVITATION**

**DATE: August 10, 2009**

**FROM:** City of Natchitoches  
Purchasing Department  
1400 Sabine Street  
Natchitoches, LA 71457

**BID NO.** 0486

**BID TITLE: (2) 69KV, Circuit Breakers for Dixie Street Substation.**

SEALED BID PROPOSALS WILL BE  
RECEIVED UNTIL 4PM,

September 14, 2009

AT THE OFFICE OF EDD LEE,  
DIRECTOR OF PURCHASING, 1400  
SABINE STREET, NATCHITOCHES, LA  
71457 UNTIL 4:00 PM.

FOR ADDITIONAL INFORMATION  
CONTACT THE FOLLOWING:

Edd Lee  
DIRECTOR OF PURCHASING  
(318) 357-3824

## Carol Steadman

---

**From:** Edd Lee  
**Sent:** Wednesday, August 05, 2009 9:20 AM  
**To:** Carol Steadman  
**Subject:** BID INVITATION -#0486 69KVA, Circuit Breaker -August 2009  
**Attachments:** BID INVITATION -#0486 69KVA, Circuit Breaker -August 2009.doc

Carol,

Please include the attached bid invitation for (2) 69 KV Circuit Breakers on the agenda for Monday's council meeting.

Thanks  
Edd

The meeting continued with Ordinances, as follows:

**ORDINANCE NO. 046 OF 2009**

**AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF NATCHITOCHEs, WAYNE MCCULLEN, TO ENTER INTO AN AGREEMENT FOR THE PURCHASE AND SALE OF Nox EMISSION ALLOWANCES WITH VICTORIA WLE, LP, AND APPROVING OF THE TERMS AND CONDITIONS OF SAME ALL AFTER DUE COMPLIANCE WITH THE LAW AND FURTHER PROVIDING FOR ADVERTISING AND FOR AN EFFECTIVE DATE**

**WHEREAS**, the City of Natchitoches, Louisiana, (sometimes hereinafter City) is a political subdivision of the State of Louisiana being a Home Rule Charter municipality created pursuant to the Constitution and Revised Statutes of the State of Louisiana; and

**WHEREAS FURTHER**, provisions of the Clean Air Act require the City to purchase and maintain a reserve of Nitrous Oxide (NOx) emission allowances in order to run City generators; and

**WHEREAS FURTHER**, the City retained an air emissions consultant, Providence Engineering, to assist the City with compliance with the Clean Air Act, and Providence Engineering has identified Victoria WLE, LP, who is willing to enter into an agreement to sale Nox Emission Allowances; and

**WHEREAS FURTHER**, Providence Engineering has recommended that the City enter into the attached Agreement for the Purchase and Sale of NOx Emission Allowances with Victoria WLE, LP; and

**WHEREAS FURTHER**, after report of the Director of Utilities, the City Council of the City of Natchitoches is of the opinion that it is in the interest of the City to enter into the Agreement for the Purchase and Sale of NOx Emission Allowances with Victoria WLE, LP, and desires to authorize Mayor Wayne McCullen to execute the Agreement for the Purchase and Sale of NOx Emission Allowances with Victoria WLE, LP, and all attachments thereto and any other document that may be required to complete the transaction; and

**NOW THEREFORE BE IT ORDAINED** by the City Council in regular session convened as follows:

**I.** That the recommendations of Providence Engineering are accepted, and the City Council of the City of Natchitoches does approve of the Agreement for the Purchase and Sale of NOx Emission Allowances with Victoria WLE, LP.

**II.** That the Honorable Mayor, Wayne McCullen, he and he is hereby authorized and empowered to execute the Agreement for the Purchase and Sale of NOx Emission Allowances with Victoria WLE, LP, and all attachments thereto and any other document that may be required to complete the transaction on behalf of the CITY, all in accordance with the general terms and conditions set forth in this Ordinance. The said Mayor is hereby given full and complete authority to incorporate in said instrument such terms, conditions, and agreements as may be necessary to protect the interest of the CITY in substantial compliance with the general terms and conditions set forth in this Ordinance.

**III.** That if any part of this Ordinance is for any reason held to be unconstitutional or invalid, by a Court of competent Jurisdiction, such decision shall not effect the validity of the remaining portions of this Ordinance, and the invalidity shall be limited to that specific portion so declared to be invalid.

**IV.** That this Ordinance shall go into effect immediately after publication according to law.

**V.** That all Ordinances in conflict herewith are hereby repealed.

**VI.** That this Ordinance be advertised in accordance with law.

**VII.** That this Ordinance be declared **INTRODUCED** at a Regular Meeting of the City Council on this the 10<sup>th</sup> day of August, 2009, and that a public hearing be called for at the next regular meeting of the City Council which will be held on the 14<sup>th</sup> day of September, 2009.

The Mayor called on Mr. Bryan Wimberly, Director of Utilities, for an explanation of Ordinance 46. Mr. Wimberly advised that, under the Clean Air Act, the power plant must be licensed by the federal government to operate, and federal requirements are that they own and be willing to surrender, depending on what they run, allowances with respect with nitrous oxide, or NOx. He said the fair market value for the allowances they need have been determined and a vendor has been located that has excess and is willing to sell to us in order to come into compliance with the federal government requirements. He said this ordinance asks for permission to go onto the market and purchase the NOx or emission requirements they anticipate needing for the next couple of years in order to be able to surrender these back to the federal government as they run the power plant.

Mr. McCain asked if this is somewhat like tap and trade. Mr. Wimberly said it is an early version of tap and trade, however, tap and trade will have to do with carbon use and emissions, and these are other gases. Mr. McCain then asked if the City will absorb the cost, or will it be added to the utility bills. Mr. Wimberly said it would be absorbed in the current budget.

The meeting continued Resolutions, as follows:

The following Resolution was Introduced by Mr. McCain and Seconded by Mr. Payne as follows, to-wit:

**RESOLUTION NO. 083 OF 2009**

**A RESOLUTION TO CORRECT COMPUTATION  
ERROR MADE IN CHANGE ORDER NO. 1 AND DATED MAY 11, 2009  
BETWEEN THE CITY OF NATCHITOCHEES AND REGIONAL  
CONSTRUCTION, L.L.C. FOR THE 2008 STREET OVERLAY PROGRAM**

**(BID NO. 0470)**

**WHEREAS**, the CITY awarded a contract to Regional Construction, L.L.C. (CONTRACTOR) on January 12, 2009, in the base bid amount of \$653,149.00 for the 2008 street overlay program; and,

**WHEREAS**, the CONTRACTOR issued Change Order No. 1 on May 11, 2009 in the sum of \$111,598.10, as itemized in attached "Attachment A" and approved by the City Council by Resolution No. 044 of 2009 dated May 11, 2009; and

**WHEREAS**, it was discovered that a typographical error was made in Change Order No. 1 (Final) Attachment "A" under Item No. ADD2, cost to Remove and Haul Existing Sub-standard Road Base Material, which should have been \$4,512.00 instead of the incorrectly stated amount of \$6.00; and

**WHEREAS**, the CONTRACTOR submitted a Certificate of Substantial Completion dated May 11, 2009 and approved by the City Council by Resolution No. 045 of 2009 which reflected the incorrect total amount of \$111,598.10; and

**WHEREAS**, this typographical error is acknowledged by the Finance Department, Purchasing Department, Contractor and Engineer as per affidavit attached hereto; and

**WHEREAS**, in order to pay the amount due the Contractor of \$4,506.00, it is necessary to amend Resolution Nos. 44 and 45 of 2009 to the correct amount of Change Order No. 1 from \$111,598.10 to the correct sum of \$116,104.10; and

**WHEREAS**, the total "Contract Price" reflected in Change Order No. 1 was correctly stated as \$769,253.10 and remains unchanged.

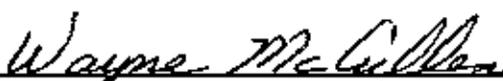
**WHEREAS**, the City Council agrees and understands that the amount due the Contractor is \$4,506.00.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Natchitoches, in legal session convened, that the Honorable Wayne McCullen, Mayor, be and is hereby authorized, empowered and directed to pay the remaining amount due under the contract with Regional construction, LLC the amount of \$4,506.00.

This Resolution was then presented for a vote, and the vote was recorded as follows:

<b>AYES:</b>	<b>McCain, Payne, Nielsen, Mims, Morrow</b>
<b>NAYS:</b>	<b>None</b>
<b>ABSENT:</b>	<b>None</b>
<b>ABSTAIN:</b>	<b>None</b>

**THEREUPON**, the Mayor, Wayne McCullen, declared the Resolution passed by a vote of 5 ayes to 0 nays, this the 10<sup>th</sup> day of August, 2009.

  
**WAYNE McCULLEN, MAYOR**

**City of Natchitoches  
2008 Street Overlay Program  
City Bid No. 0470**

**Change Order No. 1 (Final)  
Attachment "A"**

Item No.	Description	Contract			Adjustment		Revised Contract		
		Contract Unit Price	Units	Quantity	Amount	Quantity	Amount	Quantity	Amount
1	Mobilization	\$ 23,000.00	Lump Sum		\$ 23,000.00	0	\$ -	1	\$ 23,000.00
2	Cold Plane Existing Asphalt Concrete Pavement (2" Min. Thick) (Material Same as Property of Owner, Deliver to Owner Demanded Area)	\$ 4.00	S.Y.	9409	\$ 38,436.00	4795	\$ 19,740.00	14,199	\$ 58,176.00
3	In-Place Concrete Stabilized Base Course (8" Min. Thick) (8% by Volume) (No-Slope Roads or Curb-Shoulder)	\$ 12.00	S.Y.	5600	\$ 67,200.00	0	\$ -	5,600	\$ 67,200.00
4	Pave with Existing Roadway Surface into Existing Roadway Base (2" Min. Thick), Scarify and Soil Cement Stabilize Base Material (8" Min. Thick) (8% by Volume) (Re-Slope Roadway Curb-Shoulder)	\$ 15.00	S.Y.	2700	\$ 40,500.00	0	\$ -	2,700	\$ 40,500.00
5	Remove Existing Concrete Curb & Gutters (Includes Saw Cut, As Required)	\$ 8.00	L.F.	30	\$ 240.00	0	\$ -	30	\$ 240.00
6	New Concrete Curb & Gutters (Includes 8" Min. Thick Compacted Aggregate Stone Base Material)	\$ 25.00	L.F.	122	\$ 3,050.00	0	\$ -	122	\$ 3,050.00
7	Remove and Replace Concrete Sidewalk (New Sidewalk to Be 4" Min. Thick with 4" (10% by Volume) B.W.F.)	\$ 70.00	S.Y.	35	\$ 2,450.00	0	\$ -	35	\$ 2,450.00
8	Aggregate Base Repairs (Includes Saw-Cut Removal of Existing Material, 8" Min. Thick Compacted Aggregate Stone Base Material) (New Paving Material, Incl. del. in Other Bid Items)	\$ 24.00	S.Y.	112	\$ 2,688.00	0	\$ -	112	\$ 2,688.00
9	Incidental Repair of Concrete Base Repairs (To be Installed Over Stone Base Repair) (8" Min. Thick P.C. Concrete with No. 4 Bars At 12" O.C. E.W.)	\$ 40.00	S.Y.	20	\$ 800.00	0	\$ -	20	\$ 800.00
12	Modify Top Adjustment with New Rear Ring Existing Walk on Top Adjustment	\$ 100.00	Each	10	\$ 1,000.00	-10	\$ (1,000.00)	0	\$ 0.00
11	Compacted Reverse Slope Fill Material (For Shoulder Embankment and Drain Positionable Markings) (Multiple Messages)	\$ 15.00	S.Y.	528	\$ 7,920.00	0	\$ -	1,036	\$ 15,540.00
11	White Reflective Painted Pavement Strip (18" Min. Wide)	\$ 50.00	Each	4	\$ 200.00	0	\$ -	4	\$ 200.00
14	Removal of Existing Drainage Structures for Pitches and Street Drainage Improvements (Includes Removal of Existing Drain Pipes, Incidental Pavements, Driveways, Curb, and Existing Pipes for New Work)	\$ 3,000.00	Lump Sum	1	\$ 3,000.00	0	\$ -	1	\$ 3,000.00
15	Removal of Existing Drainage Structures for 219 Robber Road Drainage Improvements (Includes Removal of Existing Drain Pipes, Incidental Pavements, Driveways, Curb, and Existing Pipes for New Work)	\$ 3,000.00	Lump Sum	1	\$ 3,000.00	0	\$ -	1	\$ 3,000.00
16	18" Diameter Compacted Metal Drain Pipe (CMI) with Aggregate Bedding Material	\$ 40.00	L.F.	467	\$ 18,680.00	0	\$ -	967	\$ 38,680.00
17	24" Diameter Composite Metal Drain Pipe (CMI) with Aggregate Bedding Material	\$ 50.00	L.F.	36	\$ 1,800.00	0	\$ -	36	\$ 1,800.00
18	18" Diameter Reinforced Concrete Drain Pipe (RCP) with Aggregate Bedding Material	\$ 75.00	L.F.	8	\$ 600.00	-8	\$ (600.00)	0	\$ -
19	Drainage Catch Basin (Type CB-19, Non-Applicable) with Aggregate Bedding Material	\$ 2,400.00	Each	1	\$ 2,400.00	-1	\$ (2,400.00)	0	\$ 0.00
20	Drainage Catch Basin (Type CB-19, Non-Applicable) with Aggregate Bedding Material	\$ 3,000.00	Each	2	\$ 6,000.00	0	\$ -	2	\$ 6,000.00
21	18" (18" Min. Dia.) and Project								
22	Drainage Manhole (Type CM-1, Non-Traffic) with Aggregate Bedding Material	\$ 4,000.00	Each	1	\$ 4,000.00	-1	\$ (4,000.00)	0	\$ -
23	18" Round Top-Rap with Geotextile Fabric Underlayment (Used Only as Directed by Engineer)	\$ 30.00	S.Y.	25	\$ 750.00	-25	\$ (750.00)	0	\$ -
24	Asphalt Concrete Pavement (2" Min. Thick) (Roadways, Transitions, Turnoffs, Driveway & Roadside Repairs, Potholes, etc.)	\$ 110.00	Ton	1330	\$ 146,300.00	754.51	\$ 83,000.00	1,084.51	\$ 229,300.00
25	Concrete Pavement (Paved Drainage Channels & Driveway Repairs) (2" Min. Thick with 6% B.W.F.)	\$ 60.00	S.Y.	72	\$ 4,320.00	47	\$ 2,820.00	119	\$ 7,140.00
A1	More Cement for Soil Compaction Operations	\$ 10.00	CWT	0	\$ -	0	\$ -	0	\$ -
A2	Large Wet Tremie for Roadway Base Material (Specification (Type C) in accordance with DOTD "Red Book" Section 234 - Lump Tremie)	\$ 150.00	Ton	0	\$ -	0	\$ -	0	\$ -
ADD1	Additional Material Testing	\$ -	L.S.	0	\$ -	1	\$ 450.00	1	\$ 450.00
ADD2	Remove and Heat Existing Sub-standard Road Base Material	\$ -	S.Y.	0	\$ -	752	\$ 45,120.00	752	\$ 45,120.00
ADD3	1/2" to 3/4" Crushed Recycled and Removal and Replacement of Obstructions	\$ -	L.S.	0	\$ -	1	\$ 4,750.00	1	\$ 4,750.00
<b>Total Base Bid</b>					<b>\$ 651,490.00</b>		<b>\$ 181,598.00</b>		<b>\$ 833,088.00</b>

*Handwritten note:* 45,120.00  
45,120.00  
45,120.00

*Handwritten note:* 45,120.00  
45,120.00

CHANGE ORDER

Change Order No.: One (1) - Final  
Change Order Date: May 11, 2009 (effective date of Change Order)

PROJECT: 2008 Street Overlay Program (Bid No. 0470)  
OWNER: City of Natchitoches  
CONTRACTOR: Regional Construction, LLC

The Contract Documents are modified as follows upon execution of this Change Order:

Adjustments for final installed bid item quantities. Additions for utility conflict resolutions and removal and/or replacement of existing obstructions. Additions for additional material testing.

Contract Time Extension.

Change in Contract Price:

Original Contract Price: .....\$ 653,149.00  
Contract Price adjusted by prior Change Orders..... \$ N/A  
Contract Price due to this Change Order (will increase): .....\$ 111,598.10  
Contract Price incorporating this Change Order will be: .....\$ 769,253.10

Change in Contract Time:

Original Contract Time (calendar days)..... 105  
Contract Time adjusted by prior Change Orders ..... N/A  
Contract Time due to this Change Order (will increase): ..... 20  
Contract Time incorporating this Change Order will be: ..... 125

Recommended by (Engineer): Nassif Engineering & Architecture, LLC

\_\_\_\_\_  
(Signature) 5/11/08  
Date

Accepted by (Contractor): Regional Construction, LLC

\_\_\_\_\_  
(Signature) Date

Approved by (Owner): City of Natchitoches

Wayne McCallan  
(Signature) 5-12-09  
Date

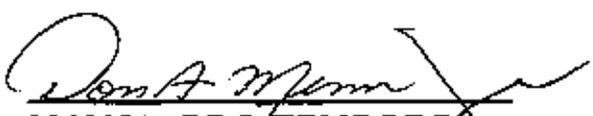
The Mayor asked if there was any further business to be brought before the Council.

Ms. Morrow asked Mr. Norman Nassif for a finish date on the project on Robeline Road. Mr. Nassif said it is his understanding that Mr. Braxton was going to handle getting that additional work done. He said he would discuss the matter with Mr. Braxton and would then call Ms. Morrow.

Ms. Rose Thomas, who lives next door to the Breda Town Community Center, addressed the meeting about problems she is having with the trash. The Mayor said he had just been made aware of the problem, and that the dumpster was provided free of charge for the Boys and Girls Club but was not on the routine maintenance schedule for the waste service since it was a donated item, but that will be resolved. Ms. Thomas advised that they came and removed it, but they brought one of the little small carts like you use behind your house and that is not appropriate for the parties and things that are going on there. The Mayor said he knows that the Assistant Director of Recreation, Kendrick Llorens, has been doing some upgrades there, and asked him to make note of that. Mr. Payne suggested that it be in the contract when someone rents the building that they have to haul their trash off. Ms. Thomas said there also needs to be someone there before the people come in, and after they leave, to count the tables and chairs and everything. Mr. Llorens said there are problems with people coming in from the neighborhood throughout the week, dropping off trash, so that's where some of the problems come in. He suggested putting the small cart inside the building so people won't feel free to use it. He also said it could be put in the agreement that a deposit had to be made so they would have to take their trash off and then you can take the dumpster and the can away. The Mayor thanked Mr. Llorens for the renovations they have been doing and asked him to get with Councilman Payne to try to resolve any remaining issues. Mr. Payne said another thing he and Ms. Thomas have talked about that is really needed is for someone to come daily and check the park out and the center to make sure everything is in good shape. Mr. Llorens said that is one of the problems they are looking into right now.

There being no further business, Mr. Nielsen made a motion to adjourn the meeting, Mr. McCain seconded the motion, and the meeting was adjourned at 7:55 p.m.

  
**MAYOR WAYNE McCULLEN**

  
**MAYOR PRO TEMPORE**