



RTA BOARD AGENDA

***** VIA ZOOM WEBINAR *****

Wednesday, September 2, 2020 at 8:30 AM

The *AGENDA* is available/posted at: <http://www.slorta.org>

President: Fred Strong

Board Members:

John Peschong (First District – SLO County)
Bruce Gibson (Second District – SLO County)
Vacant (Third District – SLO County)
Lynn Compton (Fourth District – SLO County)
Debbie Arnold (Fifth District – SLO County)
Jimmy Paulding (Arroyo Grande)

Vice President: John Peschong

Heather Moreno (Atascadero)
Karen Bright (Grover Beach)
Robert Davis (Morro Bay)
Fred Strong (Paso Robles)
Ed Waage (Pismo Beach)
Andy Pease (San Luis Obispo)

Individuals wishing accessibility accommodations at this meeting under the Americans with Disabilities Act (ADA) may request such accommodations to aid hearing, visual, or mobility impairment (including Limited English Proficiency [LEP]) by contacting the RTA offices at 781-4833. Please note that 48 hours advance notice will be necessary to honor a request.

Important Notice Regarding COVID-19

Due to the Coronavirus (COVID-19) and in accordance with the Governor's Executive Order N-29-20, the RTA Board meeting on September 2, 2020 will be a virtual meeting held via Zoom webinar.

HOW TO WATCH:

1. **To Watch:** To watch the meeting online via livestream (on your computer or mobile device), go to: www.slo-span.org, or watch the meeting via Cable TV Public Access Channel 21.
2. **To Watch and Participate in Live Public Comment:** To provide public comment during the meeting, use the Zoom webinar link below. Please use the following link to register in advance of the webinar. After registering, you will receive a confirmation email with details about joining the webinar:
https://us02web.zoom.us/webinar/register/WN_RBQdaPjfRkW3oksUiryQzg

HOW TO COMMENT:

The RTA is accepting general public comments for items on the RTA Board August agenda as well as items of interest not on the agenda within the jurisdiction of the RTA Board.

*****Note:** Every effort will be made to include your comments into the record, but due to time limitations, some comments may not be included. Members of the public can submit comments by:

Zoom webinar – Verbal, Live Public Comments

- See details on page 1 of this agenda under ‘How to Watch.’

Email – Written Public Comments to: info@slorta.org with the subject line “public comment.”

- Include the agenda item number you are referencing or type “general comment,” if it is about an item not on the agenda.
- **Emailed written comments must be submitted no later than 5:00 p.m. on Monday, August 31, 2020, 2020.**

Mail – Written Public Comments

- Mail to:
Clerk of the Board
SLO RTA
179 Cross Street
San Luis Obispo, CA 93401
- **Mailed written comments must be received by the RTA no later than 5:00 p.m. on Monday, August 31, 2020.**

FLAG SALUTE, CALL MEETING TO ORDER AND ROLL CALL

PUBLIC COMMENT: The Board reserves this portion of the agenda for members of the public to address the San Luis Obispo Regional Transit Authority Board on any items not on the agenda and within the jurisdiction of the Board. Comments are limited to three minutes per speaker. The Board will listen to all communication, but in compliance with the Brown Act, will not take any action on items that are not on the agenda.

A. INFORMATION AGENDA

- A-1 Executive Director's Report (Receive)
- A-2 Strategic Business Plan Results (Receive)

B. ACTION AGENDA – No action items

- B-1 Authorize New SLOCPT Rates for July 2021 Implementation (Approve)
- B-2 Approve TIFIA Loan Agreement for Construction of 253 Elks Lane (Approve)

C. CONSENT AGENDA

- C-1 Executive Committee Meeting Minutes of June 3, 2020 (Information)
- C-2 RTA Board Meeting Minutes of July 8, 2020 (Approve)
- C-3 Amendment to Agreement with Kitchell (Approve)
- C-4 Agreement with CPS HR Consulting for Diversity, Equity & Inclusion Review (Approve)
- C-5 RTA Board Meeting Minutes of August 5, 2020 (Approve)
- C-6 BMF Construction Change Order (Approve)

D. CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Government Code section 54956.9.) It is the intention of the Board to meet in closed session concerning the following item: (1) Significant exposure to litigation pursuant to subdivision (d) of section 54956.9. Number of potential cases: One.

E. BOARD MEMBER COMMENTS

Next RTA Board meeting: November 4, 2020: Regularly scheduled meeting

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SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY
SEPTEMBER 2, 2020
STAFF REPORT

AGENDA ITEM: A-1

TOPIC: Executive Director's Report

PRESENTED BY: Geoff Straw, Executive Director

STAFF RECOMMENDATION: Receive and File.

BACKGROUND/DISCUSSION:

Update on COVID-19 Pandemic Impacts:

The RTA continues to respond to and plan for recovery from the COVID-19 pandemic. The RTA and its transit agency partners are continuing to provide lifeline services, including transportation for vital healthcare workers and other essential employees responding to the pandemic. Public transit is also critical for many persons so that they can obtain necessary goods and services.

Below is a summary of the previously reported changes (and implementation dates) staff has implemented in response to the pandemic:

1. Public info campaign to sanitize hands and stay home if sick (March 3)
2. Revised vehicle & facility sanitizing procedures (March 10)
3. Weekday Regular Service decreased to Saturday Service levels (March 16)
4. Fares suspended & boarding at mid-door (March 23)
5. Ordered sanitizing foggers to clean bus interiors (March 27)
6. Fiscal Emergency declared by RTA Board (April 1)
7. Face masks provided to employees (April 3)
8. Bus Operator bid "shake-up" & admin leave program implemented (April 5)
9. Maximum vehicle loads established & Tripper buses added (April 13)
10. Face coverings required on all buses and at bus stops (June 12)
11. Interim cash fare & temporary shower curtain-based screen (June 14)
12. Passenger hand sanitizing gel dispensers on all transit vehicles (June 22)
13. Service ramp-up to address increasing ridership (June 28)
14. Employee personal temperature screening policy (June 28)

Other more recent COVID-19 initiatives (and pertinent dates) include:

1. Permanent "sneeze guard" barriers (July 13) – Plexiglas barriers on all fixed-route buses and cutaway vans will provide a more secure and easier to clean barrier than the temporary shower curtain-based systems installed in mid-June. The low-floor Runabout and Paso Dial-A-Ride minivans are currently being

outfitted with a vendor-supplied plastic/fabric barrier that will isolate the driver from passengers.

2. Fall service “shake-up” and slight service revisions (August 16) – due to reduced demand on Runabout and the dial-a-ride services, as well as the suspension of Route 14 Cuesta College and the high school tripper fixed-route services, the new Bus Operator bids and service levels have been adjusted accordingly. These reductions meet the annual 5% service cut assumed in the FY20-21 operating budget. Even with these cuts, the following Bus Operator bids are open:
 - a. One part-time RTA bid stationed in Paso Robles;
 - b. One part-time/health benefited RTA bid in Paso Robles;
 - c. Two full-time RTA bid in San Luis Obispo; and
 - d. Six part-time SoCo Transit bids in Arroyo Grande.
3. Training for and implementation of sanitizing foggers (August 18) – the five foggers back-ordered since March finally arrive in late July. Health and safety-related training protocols were then developed and on-site training was provided to our Utility employees, as well as select Technicians and Road Supervisors as a back-up. These CARES Act-funded foggers speed up the bus interior sanitizing process that takes place at the three bus parking facilities; one fogger has been loaned to SLO Transit to assist with the sanitizing of their fleet of local fixed-route buses.
4. Bids to install customer service window (August 12) – when the city halls are open and are able to resume sales of RTA passenger fare media, staff intends to re-implement full fares. In order to protect on-site employees, we are reviewing bids to install a CARES Act-funded pass-through window at our 179 Cross Street facility. The new Bus Maintenance Facility (BMF) already has a good solution designed into it.
5. Bids to install enhanced building air-handling system (August 19) – we are obtaining bids to modify the existing HVAC system to bring in more fresh/make-up air and to better filter the air that is recirculated. A small minority of RTA offices have openable windows. It should be noted that I have tasked our BMF engineer to review the HVAC design to determine if changes should be made. I will report any suggested changes and resulting financial impacts at a future Board meeting.

Update on the State’s Finances

On August 20th, the California Transit Association shared a Politico report that California took in \$30.3 billion in general fund revenues, \$2.6 billion (or 9.3 percent) more than state budget writers expected last month. Personal income taxes beat expectations by 12.6 percent for July. Meanwhile, sales and use taxes were ahead of the forecast by 47

percent — \$602 million above the nearly \$1.3 billion expected. However, total collections over the pandemic period from March through July are still down 6 percent compared to the same period last year — so, the good news is relative to predictions, not receipts. Also, it has been difficult to get accurate forecasts given the unprecedented nature of the economic crisis, along with a host of timing issues caused by changing deadlines and payment delays.

The Department of Finance says the big income-tax boost was “largely related to unexpected strength in the 2019 tax year,” for which payments were due in July. Spokesperson H.D. Palmer said that’s “likely due to capital gains and proprietorship income in 2019” outpacing the forecast. The final payment for second quarter taxable sales were due July 31. Finance officials say second quarter sales were stronger than expected, while some taxpayers may have delayed their payments from earlier months. Meanwhile, the report shows that income tax withholding was \$1.6 billion above the forecast of \$4.5 billion for the month — a sign that July 2020 income during the pandemic was stronger than expected, too.

It’s only the first month in the 2020-21 fiscal year, so state leaders are likely to remain cautiously optimistic. The withholding numbers are a strong indication that income — at least from the taxpayers upon which California relies most — is holding steady during the recession. The nonpartisan Legislative Analyst’s Office has said previously that withholding is going strong because the state’s progressive tax structure depends mostly on upper-income earners, who have suffered fewer impacts than lower- and middle-income residents.

The uptick in sales tax revenues may also improve the funding outlook for transit agencies by itself, by increasing the funding transit agencies receive through the Transportation Development Act’s Local Transportation Fund, local option sales taxes (not applicable in San Luis Obispo County), and the sales tax on diesel fuel.

Operations:

We are sad to share that RTA Bus Operator Darwin Buss passed away after a short illness on August 21st. Although he has only been with the RTA since September 2017 Darwin was universally liked by fellow employees and “his” passengers. He will be sorely missed.

Since the previous RTA Board meeting in July, we have one new Utility Worker on the wash rack, one new Bus Operator in revenue service, and one new Bus Operator candidate that is in the training program. We also have seven candidates that are in the background/permitting phase of recruitment that could help us sustain service levels after the pandemic shelter at home order is lifted. We are continually seeking new candidates to fill the five open Bus Operator positions.

Due to the COVID-19 pandemic, we “toned down” our traditional annual Safety Day celebration that corresponds with the August 2, 2009 implementation of in-house

operations. Typically, senior staff board safety award recipients' vehicle on route and ask passengers to join us in celebrating annual safety awards; this year we presented the awards when they checked-in for their work shift. Below is a list of the August recipients and the number of years without a preventable collision or employee injury:

Rey Gonzalez (11 years)
Elmer Hart (11 years)
Jay Newton (11 years)
Scott Taylor (11 years)
Roy Esmon (10 years)
Mike Moore (10 years)
Abel Sanchez (10 years)
Matt Adams (9 years)

Jeff Gibson (9 years)
Bill Burrows (8 years)
Carlos Candell (8 years)
Suzy Sisneros (8 years)
Jewell Johnson (7 years)
Alan Fields (6 years)
George Hartsell (5 years)
Domingo Pimentel (2 years)

The California Air Resources Board is in the process of promulgating a new Heavy-Duty Engine and Vehicle Omnibus regulation, designed to reduce in-use emissions from heavy-duty internal combustion engines used in truck and transit applications. While the pending regulation is intended to incite the development of a new generation of internal combustion engines, we recently learned that it has led Cummins – the only remaining bus engine manufacturer in the State – to decide to exit the California market for diesel engines used in transit buses, beginning in 2024, rather than comply with it. This would have the effect of forcing the RTA to accelerate purchases of zero-emission buses by five years. Our partners at the California Transit Association will meet with CARB officials overseeing the pending regulation in the coming weeks to elevate concerns with its impact to the California transit industry and to formally request that CARB withdraw the sections of the pending regulation affecting transit buses. Cummins has signaled that, if such sections are withdrawn, they would remain in the California market. Staff will provide updates at future meetings as details emerge.

Service Planning & Marketing:

Much of our marketing efforts continue to be centered on COVID-19 related service and fare changes. In addition to information campaigns about face coverings, we continue to encourage good hygiene practices for employees and customers – including hand sanitizing, social distancing, and staying home when sick.

The RTA website has been updated to better ensure the content can be read by screen readers used by persons with vision impairments.

We are working with the general contractor and construction management consultant to regularly document BMF construction progress pictorially, and we will soon provide a link on our website. Once that process is up and running, I will send a notice to Board members.

Finally, we are working with City of Paso Robles officials to replace badly faded bus stop signs throughout the service area with combined Paso Express (showing route designation) and RTA logos.

Bus Maintenance Facility Update:

As authorized by the RTA Board at its July 8th meeting, we provided a Notice to Proceed to Specialty Construction, Inc. (SCI) on July 21st. SCI mobilized within the required 14-day period, and is actively working on-site. The agreement with SCI identifies a 564 day construction period, which equates to final completion date of February 5, 2022.



SCI encountered three demolition-related challenges that will likely result in change order requests:

1. The need to remove more asbestos in the roof of the old U-Haul building than originally estimated (100 sq. ft. vs. 20 sq. ft.). I have authorized this change order for an additional \$13,756, which is included as Agenda Item C-6.
2. The need for additional soil testing near former location of in-ground pneumatic automobile lifts inside the U-Haul building. I have authorized additional work by subconsultant Rincon Consultants under our existing construction management contract with Kitchell CEM.
3. The need to remove plastic geo-grid material that was placed under the decomposed granite parking area when the former Topaz Solar Farm park-n-ride lot was developed (prior to the RTA's ownership). I have authorized this additional work as a time and materials effort.

We are working with our Construction Manager to closely track these latter two efforts and to correctly account for and report these changes at a future RTA Board meeting.

The Extended Phase I Investigation of possible archeological artifacts and the nesting bird survey that are both required under the CEQA mitigated negative declaration was conducted in late-July and early-August. No further investigation or mitigation is necessary at this time, although it is possible that archeological artifacts and/or biological assets could still be discovered during ground-disturbing activities. Staff will keep the Board informed of this process throughout the construction period.

The RTA was notified by USDOT officials that our Transportation Infrastructure and Financing Innovation Act / Rural Projects Initiative application was accepted on August

17, 2020. The final TIFIA Loan Agreement will be considered as Agenda Item B-2. I wish to thank our partners at SLOCOG, the County Counsel office, and the County Auditor's office for their unparalleled commitment to helping the RTA work through this complex process.

Unfortunately, the BMF was not selected for another discretionary FTA Section 5339(b) grant award. Now that the construction is under way, it is unlikely that we would be successful in attaining a future 5339(b) grant.

Related to the FTA, last week we were assigned a Project Management Oversight Contractor by the local FTA Region 9 office for the TIFIA loan. We worked collaboratively with the PMOC to finalize the project scope, including separately identifying cost and schedule contingencies for the overall project. No additional funds are necessary from the RTA jurisdictions.

Finance and Administration:

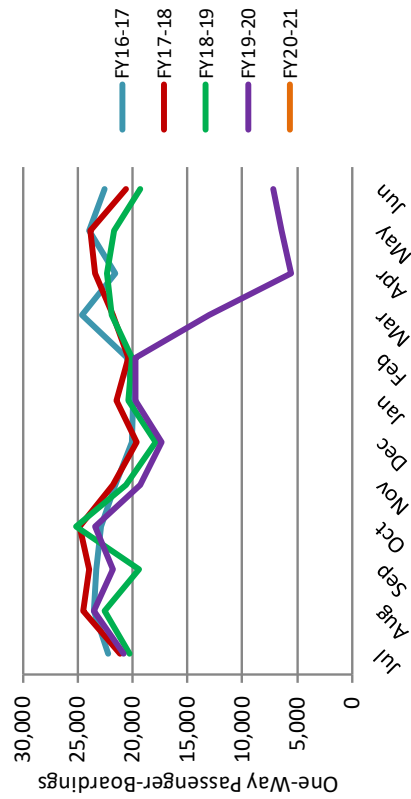
Our unaudited operating and financial results for the 2019-20 fiscal year are presented in the tables at the end of this report. This tabular information is summarized as follows:

- RTA core fixed-route ridership totaled 538,581 for the fiscal year. In comparison, the ridership in FY18-19 was 700,431, which represents a decline of 23.1%. The decline once the COVID-19 pandemic hit in March was significant: 85,567 in 2020 vs. 232,918 in 2019 – a decline of over 63%.
- Runabout ridership totaled 31,965, which is a decline of 19.8% compared to last year (39,848). The March to June decline year over year is much greater: 4,575 in 2020 vs. 13,176 in 2019 – a decline of over 65%.
- Trends over the past five years for ridership and productivity (which is defined as the average number of passenger-boardings per service hour), are provided in the graphs beginning on page A-1-8.
- In terms of financial results, staff worked hard to keep operating and capital costs within budget in light of the weakened ridership and other financial challenges. See the tables at the end of this report for details. Some important takeaways include:
 - In terms of overall non-capital expenses, we were slightly below budget – 93.2%.
 - Administrative costs were slightly above budget: 104.2%. The greatest deviation was due to the need to expend funds for operating expenses (\$379,280 vs. \$292,950) and for professional technical services (\$128,011 expended vs. an annual budget of \$112,860).

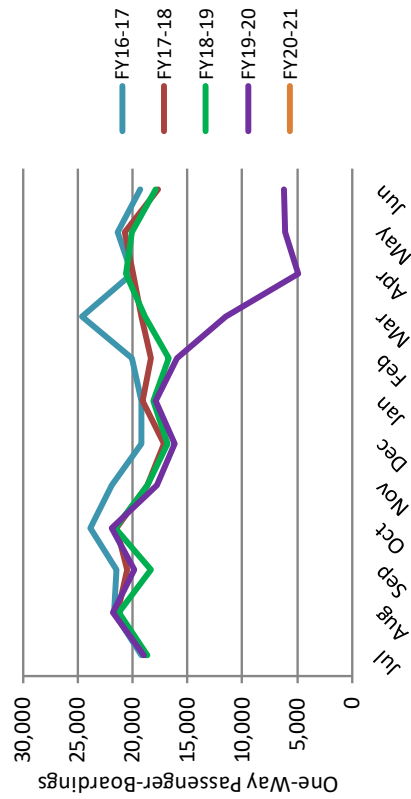
- Overall Service Delivery costs are below budget at 91.2%, largely in part due to lower fuel prices and slightly reduced paid staff hours due to the COVID-19 pandemic.
- The farebox recovery ratio for core fixed-route services equated to 13.2%, while Runabout achieved a ratio of 3.5%. Obviously, suspending the collection of fares on March 23rd greatly influenced this performance result, and the results will remain below standards until such time that fares are fully re-implemented and ridership recovers.
- The YTD subsidy per passenger-trip on core fixed-route services was \$9.36 and for Runabout it was \$101.01.

We have also provided preliminary operating and financial results for the month of July 2020.

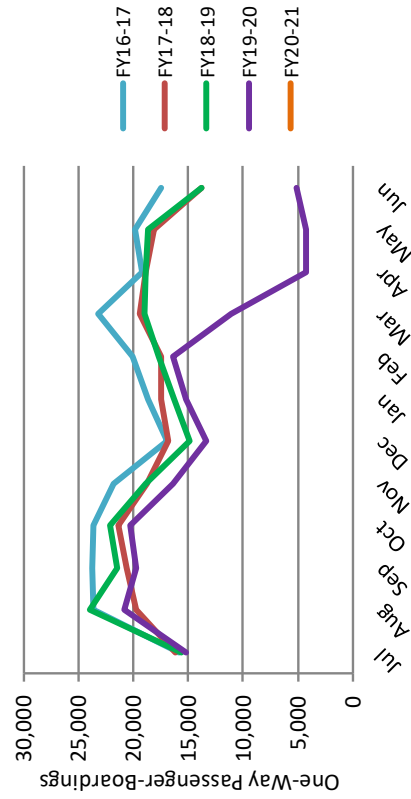
RTA Route 9 Ridership By Month



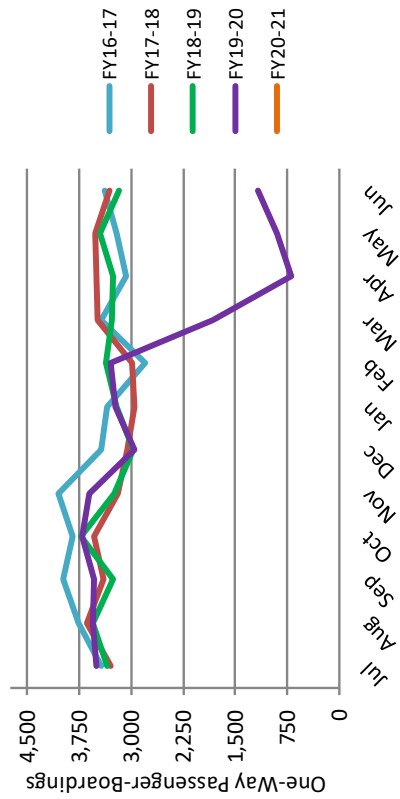
RTA Route 10 Ridership By Month



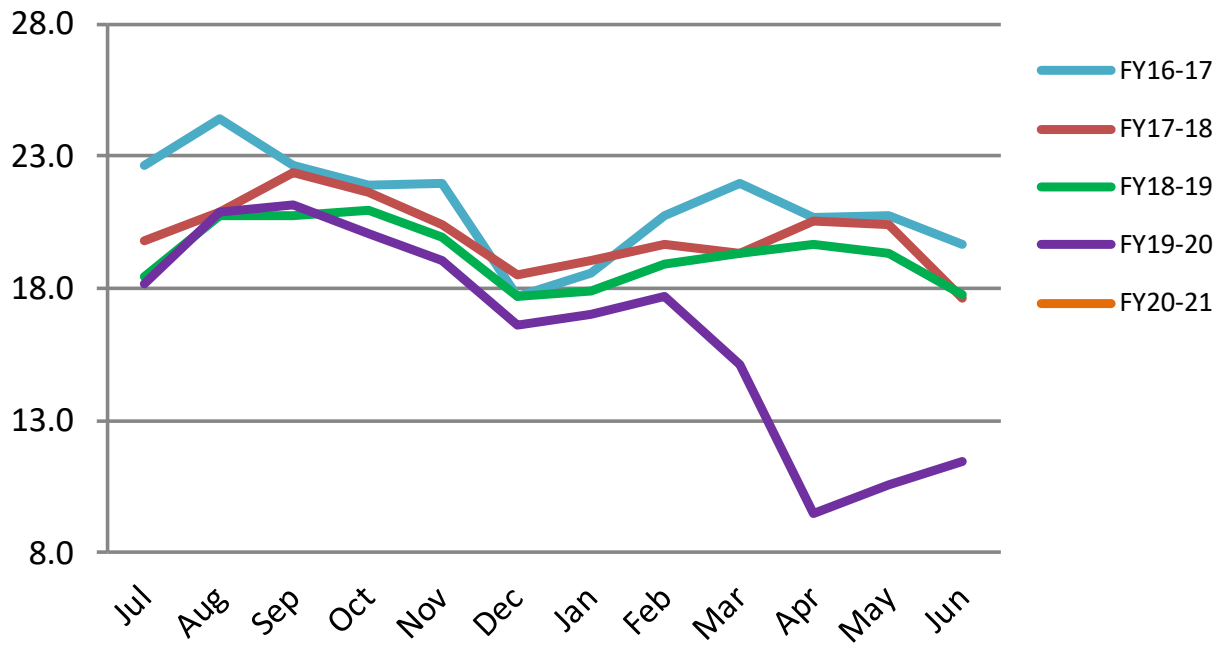
RTA Rtes. 12, 14 & 15 Pass./Mo.



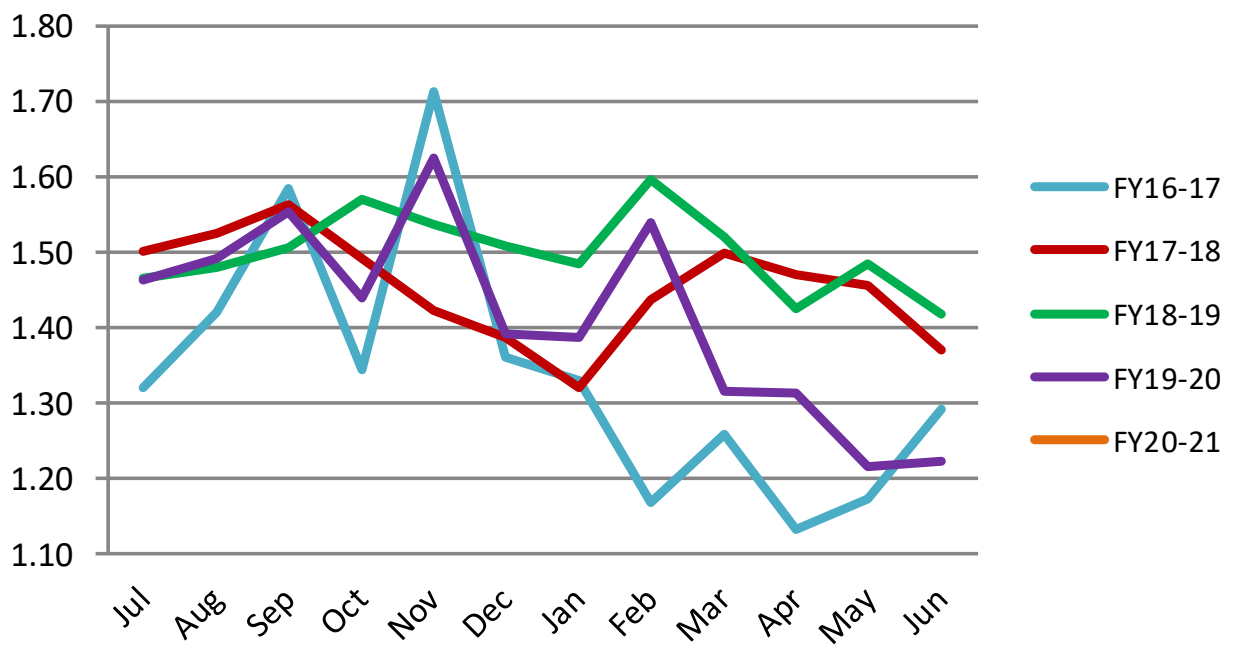
RTA Runabout Ridership by Mo.



RTA Fixed Route Productivity



RTA Runabout Productivity



Recommendation

Receive and file the Executive Director's Report.

	Adopted Budget FY 2019-20	Year to Date FY 2019-20	Percent of Total Budget FY 2019-20
Administration:			
Labor	70,210	60,063	85.5%
Hours			
Miles	1,563,240	1,369,371	87.6%
operations cost	879,630	888,656	101.0%
operations cost	51,300	47,336	92.3%
operations cost	476,920	469,823	98.5%
operations cost	20,710	24,384	117.7%
operations cost	112,860	128,011	113.4%
operations cost	44,970	37,865	84.2%
operations cost	292,950	379,280	129.5%
hourly	133,240	110,717	83.1%
operations cost	(43,030)	(43,030)	100.0%
operations cost	(88,680)	(88,680)	100.0%
operations cost	(122,650)	(122,650)	100.0%
Total Administration	1,758,220	1,831,712	104.2%
Service Delivery:			
Labor - Operations	5,086,120	4,674,781	91.9%
hourly	347,120	321,486	92.6%
Labor - Operations Workers Comp	1,121,220	1,005,333	89.7%
hourly	101,580	93,731	92.3%
Labor - Maintenance Workers Comp	1,048,730	889,930	84.9%
Fuel	677,570	675,137	99.6%
miles	44,900	32,512	72.4%
Insurance	63,590	20,965	33.0%
Special Transportation (for SLOCAT and Paso)	628,670	597,225	95.0%
n/a	125,900	121,181	96.3%
Maintenance (parts, supplies, materials)			
miles			
Maintenance Contract Costs			
Total Operations	9,245,400	8,432,282	91.2%
Capital / Studies:			
Computer System Maintenance/Upgrades	46,020	8,825	19.2%
Miscellaneous Capital			
Specialized Maintenance Tools	89,460	160,672	179.6%
Bus Stop Improvements/Bus Stop Solar Lighting Vehicles	252,860	252,586	99.9%
Cutaway and Dial A Ride Vehicles	880,700	3,760	0.4%
Runabout Vehicles and Equipment	555,200	5,000	0.9%
Total Capital Outlay	1,824,240	430,844	23.6%
Contingency			
hourly	132,040	102,566	77.7%
Elks Lane Project			
1,338,657	499,990	1,338,657	267.7%
Management Contracts			
254,360	254,360	100.0%	100.0%
TOTAL FUNDING USES	13,714,750	12,390,420	90.3%
TOTAL NON-CAPITAL EXPENDITURES	11,390,020	10,620,919	93.2%

**SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY
YEAR TO DATE THRU JUNE 30, 2020
CURRENT FISCAL YEAR - 2019/2020**

	RT 9 P.R., TEMP., ATAS, S.M., CAL POLY, S.L.O.	RT 10 S.M., NIPOMO, A.G., S.L.O.	RT 12 MORRO BAY, CUESTA, SAN LUIS	RT 14 CUESTA, SAN LUIS TRIPPER	RT 15 SAN SIM., CAMBRIA, CAYUCOS, M.B.	TOTAL RTA CORE SERVICES	TOTAL PASO EXPRESS FIXED ROUTE	PASO EXPRESS DIAL A RIDE	RUNABOUT	SYSTEM TOTAL
REVENUES:										
FARES	\$ 266,410	\$ 268,672	\$ 182,546	\$ 19,777	\$ 25,661	\$ 763,066	\$ 97,527	\$ 4,967	\$ 116,012	\$ 981,571
TOTAL ROUTE REVENUES	\$ 266,410	\$ 268,672	\$ 182,546	\$ 19,777	\$ 25,661	\$ 763,066	\$ 97,527	\$ 4,967	\$ 116,012	\$ 981,571
EXPENDITURES:										
ADMINISTRATION	\$ 351,203	\$ 294,427	\$ 188,248	\$ 14,038	\$ 109,964	\$ 957,880	\$ 36,855	\$ 6,175	\$ 734,622	\$ 1,735,532
MARKETING	40,880	33,994	21,823	1,813	12,207	110,717	-	-	-	110,717
OPERATIONS/CONTINGENCY	1,316,147	1,124,708	698,198	50,176	422,969	3,612,197	728,419	102,071	2,286,371	6,729,059
FUEL	234,358	227,461	123,417	12,319	76,698	674,253	48,022	3,819	153,722	879,816
INSURANCE	155,676	149,708	80,217	7,051	53,935	446,588	43,416	4,295	170,213	664,512
TOTAL EXPENDITURES	\$ 2,098,263	\$ 1,830,298	\$ 1,111,904	\$ 85,396	\$ 675,773	\$ 5,801,635	\$ 856,711	\$ 116,361	\$ 3,344,929	\$ 10,119,636
FAREBOX RATIO	12.7%	14.7%	16.4%	23.2%	3.8%	13.2%	11.4%	4.3%	3.5%	9.7%
SERVICE MILES	315,248.5	306,074.4	166,127.9	16,607.5	102,984.2	907,042.6	82,564.0	9,725.0	370,039.0	1,369,370.6
SERVICE HOURS	11,466.1	9,644.6	6,177.5	509.8	3,332.4	31,130.3	5,839.6	1,045.4	22,044.7	60,060.0
RIDERSHIP (Automatic Counters)	197,697	178,927	127,300	15,591	19,066	538,581	91,349	2,006	31,965	663,901
RIDERS PER MILE	0.63	0.58	0.78	0.94	0.20	0.59	1.11	0.21	0.09	0.48
RIDERS PER HOUR	17.2	18.5	21.2	30.6	6.2	17.3	15.6	1.9	1.5	11.1
COST PER PASSENGER	\$ 10.61	\$ 10.23	\$ 8.73	\$ 5.48	\$ 35.44	\$ 10.77	\$ 9.38	\$ 58.01	\$ 104.64	\$ 15.24
SUBSIDY PER PASSENGER	\$ 9.27	\$ 8.73	\$ 7.30	\$ 4.21	\$ 34.10	\$ 9.36	\$ 8.31	\$ 55.53	\$ 101.01	\$ 13.76

	Adopted Budget FY 2020-21	July Budget	July Actual	July Variance	Year to Date FY 2020-21	Percent of Total Budget FY 2020-21
Administration:						
Labor						
Labor - Administration Workers Comp						
Office Space Rental						
Property Insurance						
Professional Technical Services						
Professional Development						
Operating Expense						
Marketing and Reproduction						
North County Management Contract						
County Management Contract						
SCT Management Contract						
Total Administration						
Service Delivery:						
Labor - Operations						
Labor - Operations Workers Comp						
Labor - Maintenance						
Labor - Maintenance Workers Comp						
Fuel						
Insurance						
Special Transportation (for SLOCAT and Paso)						
Avila Trolley						
Maintenance (parts, supplies, materials)						
Maintenance Contract Costs						
Total Operations						
Capital/Studies:						
Computer System Maintenance/Upgrades						
Miscellaneous Capital						
Maintenance Equipment						
Radios						
Bus Stop Improvements/Bus Stop Solar Lighting						
Vehicles						
Support Vehicles						
40' Coaches						
Runabout Vehicles						
Total Capital Outlay						
Contingency						
Elks Lane Project						
Management Contracts						
TOTAL FUNDING USES						
TOTAL NON-CAPITAL EXPENDITURES						

**SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY
YEAR TO DATE THRU JULY 31, 2020
CURRENT FISCAL YEAR - 2020/2021**

	RT 9 P.R., TEMP., ATAS., S.M., CAL POLY, S.L.O.	RT 10 S.M., NIPOMO, A.G., S.L.O.	RT 12 MORRO BAY, CUESTA, SAN LUIS	RT 14 CUESTA, SAN LUIS TRIPPER	RT 15 SAN SIM., CAMBRIA, CAYUCOS, M.B.	TOTAL RTA CORE SERVICES	TOTAL PASO EXPRESS FIXED ROUTE	PASO EXPRESS DIAL A RIDE	RUNABOUT	SYSTEM TOTAL
REVENUES:										
FARES	\$ 3,277	\$ 4,214	\$ 2,473	\$ -	\$ 387	\$ 10,351	\$ 5,124	\$ 243	\$ 4,859	\$ 20,577
TOTAL ROUTE REVENUES	\$ 3,277	\$ 4,214	\$ 2,473	\$ -	\$ 387	\$ 10,351	\$ 5,124	\$ 243	\$ 4,859	\$ 20,577
EXPENDITURES:										
ADMINISTRATION	\$ 40,869	\$ 33,857	\$ 23,211	\$ 449	\$ 10,171	\$ 108,556	\$ 3,289	\$ 414	\$ 45,568	\$ 157,828
MARKETING	249	206	141	3	62	661	-	-	-	661
OPERATIONS/CONTINGENCY	140,583	118,203	80,178	1,553	35,346	375,863	67,256	9,066	152,989	605,175
FUEL	17,015	17,762	10,372	207	4,993	50,349	2,804	253	7,724	61,130
INSURANCE	13,907	14,517	8,477	169	4,081	41,151	3,889	272	7,692	53,004
TOTAL EXPENDITURES	\$ 212,623	\$ 184,545	\$ 122,380	\$ 2,381	\$ 54,652	\$ 576,581	\$ 77,238	\$ 10,006	\$ 213,973	\$ 877,797
FAREBOX RATIO	1.5%	2.3%	2.0%	0.0%	0.7%	1.8%	6.6%	2.4%	2.3%	2.3%
SERVICE MILES	26,710.6	27,882.4	16,281.8	325.5	7,838.2	79,038.5	7,468.7	523.0	14,774.0	101,804.3
SERVICE HOURS	1,035.7	858.0	588.2	11.4	257.7	2,751.0	518.3	65.3	1,154.8	4,489.4
RIDERSHIP (Automatic Counters)	8,181	8,734	5,200	299	986	23,400	4,377	91	1,308	29,176
RIDERS PER MILE	0.30	0.30	0.31	0.92	0.12	0.30	0.59	0.17	0.09	0.29
RIDERS PER HOUR	7.7	9.9	8.5	26.3	3.9	8.5	8.4	1.4	1.1	6.5
COST PER PASSENGER	\$ 25.99	\$ 21.13	\$ 23.53	\$ 7.96	\$ 55.43	\$ 24.64	\$ 17.65	\$ 109.95	\$ 163.59	\$ 30.09
SUBSIDY PER PASSENGER	\$ 25.59	\$ 20.65	\$ 23.06	\$ 7.96	\$ 55.04	\$ 24.20	\$ 16.48	\$ 107.28	\$ 159.87	\$ 29.38

SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY
SEPTEMBER 2, 2020
STAFF REPORT

AGENDA ITEM: A-2

TOPIC: Strategic Business Plan Results

PRESENTED BY: Geoff Straw, Executive Director

STAFF RECOMMENDATION: Receive Report on Performance Results through June 30, 2020

BACKGROUND/DISCUSSION:

The Strategic Business Plan (SBP) includes Vision and Mission Statements, as well as “stretch” performance standards to ensure the RTA continually seeks to improve its services. The RTA Board adopted its updated 2018-2020 SBP at its March 7, 2018 meeting. The attached annual report that compares actual performance results against the adopted standards.

The attached report presents our annual results for fiscal year 2019-20, as well as comparative information for prior fiscal years. Please note that the financial figures are unaudited estimates, but they provide a reasonable representation of each applicable financial measure. For measurement purposes, our *2016 Short Range Transit Plan* sets the base goals that the RTA believes it can achieve, and the SBP sets the standards that we strive to achieve.

The table on the next page presents a “dashboard” view of easily-reported objective standards and our annual results. We did not achieve the adopted standard in those areas presented in red, while the metrics presented in green show our successes. The areas where RTA core services failed to meet our SBP standards are:

1. Productivity,
2. Farebox Recovery Ratio,
3. Preventable Collisions, and
4. Preventable Workers Compensation.

All other objective standards were met. Staff will continue to closely monitor ridership and seek to increase boardings through a variety of marketing efforts, although acknowledging these efforts will be limited due to the impacts of the current pandemic. Information gathered from preventable collisions and work comp incidents is evaluated as training is developed for new and current employees.

The ensuing pages present a narrative summary for each of the metrics presented in the dashboard, as well as for each of the subjective standards.

RTA's Performance Results for Fiscal Year 2019-20			
Performance Metric	Standard	Result	Achieved?
Regional Fixed-Route Productivity (boardings/hour)	22.0	17.8	No
Route 15 Deviated Fixed-Route Productivity	8.0	5.7	No
Runabout Productivity	2.0	1.4	No
Fixed-Route Service Delivery (actual divided by scheduled)	99%	99%	Yes
Regional Fixed-Route On-Time Performance	85%	87%	Yes
Route 15 Deviated Fixed-Route On-Time Performance	70%	77%	Yes
Runabout On-Time Performance	95%	98%	Yes
Fixed-Route Bus Overcrowding	Various load factors	None exceeded	Yes
Systemwide Operating Budget (live within means)	100%	93.2%	Yes
Farebox Recovery Ratio (fares / net operating costs)	20.0%	12.9%	No
Preventable Collision Rate (per 100k miles traveled)	1.0	2.56	No
Preventable Workers Compensation Rate	Lost-time <6	7	No
	Med-only <10	14	
Risk Management Costs (percent of operating budget)	Industry norms	At or below market	Yes
Road Calls (per 100k miles traveled)	5.0	4.6	Yes

Staff Recommendation:

Receive the attached report on key performance indicator results for FY19-20.

Focused 2018-20 Strategic Business Plan Standards of Excellence

Standards of Excellence Section 1: Service Quality and Efficiency – We will deliver dependable, customer focused and efficient transit services to the communities that we serve. Further, we will look for opportunities to deploy innovative new service within budgetary constraints.

Standard 1: The Productivity (one-way passenger-boardings per vehicle service hour) standards are presented below for regularly-scheduled / year-round services:

- A. Regional intercity fixed-route (RTA Routes 9, 10, 12 & 14) services shall be 22 or greater.
- B. Route deviation services (such as RTA Route 15) will be 8.0 or greater.
- C. Local fixed-route (Paso Express Routes A & B, and SoCo Transit Routes 21, 24, 27 & 28) shall be 17 or greater.
- D. Runabout and other demand response services will be 2.0 or greater.

Any recommended changes to seasonal or lifeline services (i.e., Shandon Dial-A-Ride) will include target productivity standards that must be met in order to qualify for continued funding.

Measurement: Objective.

- Reviewed monthly by Operations Manager and reported by Executive Director at each Board meeting.

FY18-19 Productivity													
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	YTD
RTA Fixed	20.0	22.7	22.3	20.9	19.9	18.8	19.1	20.1	20.5	20.9	20.5	18.8	20.3
Rte 15	7.6	8.7	8.3	8.2	8.0	7.3	6.6	7.0	7.4	7.5	8.0	6.6	7.7
Paso Express	16.5	17.7	18.4	19.6	17.6	15.5	16.6	16.8	17.9	18.3	19.8	18.0	17.3
Runabout	1.5	1.5	1.5	1.6	1.5	1.5	1.5	1.6	1.5	1.4	1.5	1.4	1.5
Paso DAR	1.7	1.9	2.1	1.8	2.1	2.2	2.2	2.3	2.3	2.2	2.2	1.9	2.0
Nipomo DAR	1.7	3.5	3.9	4.3	3.6	3.8	3.2	3.8	3.7	2.3	3.7	2.3	3.5

FY19-20 Productivity													
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	YTD
RTA Fixed	19.2	22.3	22.5	21.4	20.4	17.5	18.3	19.2	16.9	10.5	12.2	12.7	17.8
Rte 15	6.9	6.9	8.2	6.8	6.7	8.0	5.4	5.1	4.3	3.8	2.8	3.9	5.7
Paso Express	17.2	19.0	19.5	19.2	16.7	16.4	18.4	17.8	12.1	8.3	9.2	10.4	15.4
Runabout	1.5	1.5	1.6	1.4	1.6	1.4	1.4	1.5	1.3	1.3	1.2	1.2	1.4
Paso DAR	1.8	1.9	1.9	2.0	2.0	2.2	1.8	1.9	1.5	1.7	1.7	1.7	1.8
Nipomo DAR	1.7	3.0	4.1	4.2	3.6	3.3	2.9	3.3	3.3	1.2	1.3	1.6	2.8

The table above shows that we exceeded the standards for Nipomo Dial-A-Ride. However, we did not meet the standards for RTA regional fixed-routes, Paso Express, RTA Route 15, Paso Dial-A-Ride, or Runabout. Similar to national ridership trends, we continue to see declines/stagnation, which is an area of concern for the RTA and our partner transit agencies. In addition, the COVID-19 pandemic and statewide stay at home orders beginning in March 2020 drastically reduced demand for public transit services. Staff will continue to look at alternatives to improve ridership results.

Standard 2: The Service Delivery rate for all regularly-scheduled / year-round services shall be 99% or greater.

Measurement: Objective.

- Reviewed quarterly by Operations, and reported by Executive Director bi-annually to the Board.

As long as a scheduled fixed-route bus trip is delivered ahead of the next scheduled bus trip, then service is considered “delivered” (but that late trip will still be reported under the on-time performance measure discussed below). The service delivery goal is 99% or greater. The RTA delivers about 2,644 trips per month, and we missed 13 trips in FY19-20, or a service delivery achievement of 99%. Paso Express delivers about 634 trips per month, and missed 4 trips in FY20, resulting in a service delivery achievement of 99%.

Standard 3: “On-time” is defined as no later than six minutes from any time point in the published schedule. We recognize that making scheduled transfers between buses is vitally important to riders, and staff will explore methods of regularly measuring missed transfers. The following On-Time Performance standards shall apply to regularly-scheduled / year-round services:

- Regional intercity fixed-route and Express runs shall be 85% or greater.
- Local fixed-route shall be 90% or greater.
- Route deviation services shall be 70% or greater.

Measurement: Objective.

- Reviewed quarterly by Operations, and reported by Executive Director bi-annually to the Board.

FY 2019													
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	YTD
RTA	85%	85%	85%	87%	85%	85%	89%	88%	89%	86%	87%	86%	86%
Paso	87%	85%	86%	82%	77%	83%	83%	81%	84%	78%	86%	82%	83%
Rte 15	73%	69%	74%	84%	79%	81%	83%	84%	82%	88%	76%	86%	80%

FY 2020													
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	YTD
RTA	88%	88%	85%	86%	87%	86%	89%	85%	89%	89%	90%	86%	87%
Paso	77%	84%	83%	81%	85%	85%	82%	85%	92%	92%	96%	94%	86%
Rte 15	75%	74%	71%	78%	77%	76%	77%	78%	70%	80%	88%	81%	77%

- The FY19-20 table above shows that we are meeting the standard for RTA intercity fixed-routes and RTA Route 15 deviated fixed-route service, but failed to meet the standard on the two Paso Express local fixed-routes. Staff will continue to look for ways to achieve this goal.

Standard 4: The On-Time Performance (OTP) for Runabout and other demand response services shall be 95% or greater.

Measurement: Objective.

- Reviewed quarterly by Operations, and reported by Executive Director bi-annually to the Board.

Runabout service is considered on-time if the van arrives within 30 minutes of the appointed pick-up time. The goal is 95% or greater, and Runabout has surpassed this goal in each month of FY19-20, achieving an overall OTP result of 98.3%. Staff will continue to monitor Runabout's OTP to ensure we continue to achieve this strong result.

Standard 5: The RTA will make consistent efforts to explore new service and service delivery options as well as work with regional efficiencies in the delivery of transportation to the jurisdictions

Measurement: Subjective.

- Reported by the Executive Director and Division Heads annually.
 1. Schedule revisions and minor route alignment changes are evaluated routinely to improve service delivery.
 2. Staff monitors ridership and customer comments looking for system improvements.

Standard 6: The RTA will measure Overcrowding as the frequency of instances that the number of passengers on a bus exceeds the number of seats (i.e., 34 passengers on a 34-seat bus equates to a Load Factor of 1.00), as well as the duration of exceedances. The Overcrowding standards are as follows:

- A. The standard for regular fixed-route services is no more than 10% of the monthly total number of bus trips that exceed a Load Factor of 1.25 for greater than 20 minutes.
- B. The standard for Express services is no more than 10% of the monthly total number of bus trips exceeds a Load Factor of 1.00 for greater than 20 minutes.

If the Load Factor standards are exceeded, staff will assign a larger vehicle (if possible); otherwise, the Board will direct staff to evaluate adding scheduled bus trips to spread out the passenger loads.

Measurement: Objective.

- Reviewed quarterly by Operations Manager and reported by the Executive Director biannually to the Board.

There were no trips exceeding the overcrowding standard during the fiscal year. Staff will continue to monitor the service for crowding issues.

Standards of Excellence Section 2: Revenue and Resources – While providing excellent service to our customers and communities, we will do so within the financial resources available to us. The financial health of the organization will not be compromised, and we will work to deliver good value for the taxpayers’ investment in the RTA.

Standard 1: The annual operating budget will be based upon projected revenue and the total operating cost will not exceed the budget adopted by the Board.

Measurement: Objective.

- Tracked monthly in financial statements and reported bimonthly to the RTA Board.

Fiscal Year 2016 Result: Operating Costs were 90% of the adopted budget

Fiscal Year 2017 Result: Operating Costs were 89% of the adopted budget

Fiscal Year 2018 Result: Operating Costs were 94% of the adopted budget

Fiscal Year 2019 Result: Operating Costs were 95% of the adopted budget

Fiscal Year 2020 Result: Operating Costs were 93% of the adopted budget (unaudited)

Budget versus actual expenses data is calculated and reviewed on a monthly basis by RTA staff. This information is reported to the Board at each meeting (typically every other month) to help inform decisions.

Standard 2: The Farebox Recovery Ratio for all regularly scheduled / year-round services shall be 20% greater than the minimum standard required by SLOCOG to meet TDA requirements.

Measurement: Objective.

- Tracked monthly and reported bimonthly to the RTA Board.

Fiscal Year 2016 Result: 25.7% (*including Paso Express*)

Fiscal Year 2017 Result: 21.4% (*including Paso Express*)

Fiscal Year 2018 Result: 20.5% (*including Paso Express*)

Fiscal Year 2019 Result: 18.2% (*including Paso Express*)

Fiscal Year 2020 Result: 12.9% (*including Paso Express, unaudited*); 18.0% (*including Paso Express through January 2020 prior to the COVID 19 pandemic, unaudited*). Core RTA fixed-routes achieved 13.2%.

In recent years, the RTA has struggled to meet this standard, particularly as the pre-pandemic economy improved, gas prices remained relatively low, and private

automobile ownership increased. Staff will continue to closely monitor our FRR performance,

Standard 3: No significant annual fiscal and compliance audit findings.

Measurement: Objective.

- Finance and Administration will report any negative audit findings to the RTA Board.

The RTA consistently achieves positive annual fiscal and compliance reports with no significant financial audit findings. Staff strives to improve transparency and continues to implement procedures that exceed the auditors' expectations.

Standard 4: Ensure that all capital procurements provide good value to our customers and our employees.

Measurement: Subjective.

- Evaluated through the Marketing Department's biannual Community Perception Survey, feedback from communities, and review of the annual 5-year capital program by the RTA Board.

The annual capital program is developed by staff and presented to the Board as part of the annual budget-making process. In addition, staff presents budget revision recommendations if conditions change.

Standards of Excellence Section 3: Safety – We recognize the tremendous importance of safety in the operation of RTA service to our customers and communities. Therefore, the safety of our customers and employees will be an organizational priority and we will be proactive in promoting system safety.

Standard 1: Rate of preventable vehicle collisions will not exceed 1.0 per 100,000 miles.

Measurement: Objective.

- Rate shall be tracked by the Safety and Training Manager, and reported annually to the RTA Board.

RTA Fiscal Year 2015-16 Result: 1.03

RTA Fiscal Year 2016-17 Result: 0.37

RTA Fiscal Year 2017-18 Result: 0.94

RTA Fiscal Year 2018-19 Result: 1.14

RTA Fiscal Year 2019-20 Result: 2.56

This result is particularly alarming, although a review of the collision types thankfully most collisions were minor and non-injury. Staff will continue to track this KPI closely. We have put together a team to monitor causative factors, routes, years of experience, locations, and types of collisions, etc.

Standard 2: Address all safety hazards identified by the Safety Resource Committee.

Measurement: Objective.

- List shall be compiled with action items and timelines by the Safety and Training Manager.

During FY19-20, the Safety Resource and Employee Committee has been busy: 46 action items were closed-out, it opened 46 new suggestions, 18 action items remain open, and 2 reoccurring items remain on the monthly agenda. Employees are engaged in the Committee by submitting suggestions and helping to develop solutions. Suggestions that are not directly related to the Committee are forwarded to the appropriate department for resolution.

Our 2020 annual refresher-training classes for Bus Operators, Supervisors and Dispatchers will continue throughout the year. We appreciate the attentiveness of our employees as they have identified hazards that we were able to mitigate which include eliminating vehicles backing at the Paso Transit Center, mechanics changing out streaky window washer fluid, padding the sharp edges on the securement boxes in the cutaway vans, and replacing driver seats as needed to avoid back injuries. Some new safety items have been added such as: Basic First Aid kits in the supervisor vehicles, seat belt cutters in the buses, and the purchase Automated External Defibrillators (AEDs). AEDs are available at the three RTA parking facilities in San Luis Obispo, Arroyo Grande and Paso Robles. AED training was provided to selected employees on varying shifts. A County of SLO Community Resource Project staff member also conducts on-going training on the 211 service pertaining to comprehensive referrals to available, local support and services.

Standard 3: Preventable workers compensation lost-time claims will not exceed six annually, and preventable medical-only claims will not exceed five annually.

Measurement: Objective.

- All work comp claims shall be duly investigated and immediately reported by Finance and Administration staff to our carrier.

Fiscal Year 2015-16 Result: 1 lost-time claim (no medical only)

Fiscal Year 2016-17 Result: 5 lost-time claims, and 3 medical only

Fiscal Year 2017-18 Result: 0 lost-time claims, and 7 medical only

Fiscal Year 2018-19 Result: 11 lost-time claims (10 have been closed as of July 31, 2019), and 5 medical only (all have closed as of July 31, 2019)

Fiscal Year 2019-20 Result: 7 lost-time claims (2 have been closed as of July 31, 2020), and 14 first aid/incidents/medical only (all 14 have closed as of July 31, 2020)

Standard 4: Customer and community perception of system safety will be at least 90%.

Measurement: Objective.

- As measured in biannual Community Perception Survey.

Based on the Customer Perceptions Survey conducted in March 2020 prior to the COVID-19 pandemic, customer perception of system safety was rated 3.6 out of 4, which equates to 90%. Staff continues to strive to maintain and increase the measurement of this standard.

Standard 5: Total risk management costs shall not exceed industry norms. Staff will undertake alternating market surveys every four years for vehicle liability / physical damage coverage and for workers compensation coverage.

Measurement: Objective.

- Tracked monthly by Finance and Administration and reported bimonthly to the RTA Board.
- Reported monthly by Finance and Administration in financials and YTD budget reports.

Fiscal Year 2015 Result: 8.7% of total operating costs
Fiscal Year 2016 Result: 10.7% of total operating costs
Fiscal Year 2017 Result: 13.7% of total operating costs
Fiscal Year 2018 Result: 13.2% of total operating costs
Fiscal Year 2019 Result: 10.8% of total operating costs
Fiscal Year 2020 Result: 10.9% of total operating costs (*unaudited*)

Staff has worked hard to close claims submitted in prior years. More importantly, our workers compensation premiums declined for the first time in many years. Although this is good news, due to the tightening market in California, staff expects risk management costs to continue to escalate unless tort reform or other adjustments are made by the Legislature that could reduce transit agencies' exposure to frivolous lawsuits. If our exposure could be reduced, it would likely increase competition in the market and reduce our risk management costs. Staff is closely monitoring this issue and will report developments back to the Board as information is collected.

Standards of Excellence Section 4: Human Resources – Our employees are the foundation of the organization. We will support our employees in achieving excellence through training and development, teamwork, and continuous efforts at effective communication while treating each with integrity and dignity.

Standard 1: Recruit, promote and retain highly qualified employees to achieve our service standards.

Measurement: Subjective.

- Annual assessment by Executive Director and Department Heads.

The annual calendar year turnover rates for RTA are as follows:

2016 – 14%

2017 – 19%

2018 – 20%

2019 – 18%

2020 – 6.5% (as of June 30, 2020)

Standard 2: Provide continuous development of skills and capabilities through ongoing training and development programs that foster personal and professional growth. Department Heads develop training plans as part of annual budget-making process, according the following minimum standards:

- A. Maintenance: 30 Hours per technician annually.
- B. Operations Supervisors: 24 Hours annually.
- C. Bus Operators: 8 Hours Annually.
- D. Finance and Administration: 16 Hours per employee annually.

Measurement: Objective.

- Department Heads evaluated annually for achievement of training objectives.

Staff appreciates the Board’s commitment to funding a relatively robust training budget in FY19-20. It should be noted that ongoing training is a major part of what staff does on a daily basis to help both the organization and staff grow professionally.

- Maintenance: For FY19-20, the Technicians who worked the full year averaged over 32 hours per person, with significant training being conducted for electrical, brakes, and HVAC. The RTA has greatly benefited from membership in the Southern California Regional Transit Training Consortium, providing significant training resources. For comparison, in FY18-19 the Technicians averaged 38 hours of training per person (FY19-20 training was hampered by a moratorium on travel during the pandemic).
- Operations Supervisors (24 Hours annually): In FY19-20, the average was 28 training hours per Supervisor. These trainings included the follow:
 - RTA staff completes mandatory two-hour Management Sexual Harassment Training every two years.
 - Due to the COVID-19, the FTA Drug and Alcohol Conference scheduled in April 2020 was suspended.
 - The Operations Manager attended the CALACT conference in October 2019.
 - New supervisors completed Drug and Alcohol Reasonable Suspicion training.
 - Operations Supervisor and Training Staff attended two-hour CalTIP training on “Making Better Decisions and Reducing Complacency.”
 - Training Staff attended a one-hour Community Resource Project 211 Training presentation by a County of San Luis Obispo expert.

- The Safety & Training Manager attended FTA Public Transportation Agency Safety Plan development training in August 2019.
- One Training staff member attended a five-day Transportation Safety Institute (TSI) training course on “Fundamentals of Bus Collision Investigation” in January 2020 and a one-hour TSI online webinar training “SMS Awareness.” He is working toward attaining his FTA Safety Certification.
- State-mandated minimum of 8 hours of annual *Verification of Transit Training* (VTT) was successfully provided for each employee with a Commercial Driver’s License again this year.
- Bus Operator training included:
 - State-mandated minimum of 8 hours of VTT (see above).
 - Six-month refresher for new Bus Operators.
 - 17 Bus Operators attended a two-hour CalTIP training on “Making Better Decisions and Reducing Complacency.”
 - Focused and customized training designed specifically for Bus Operators on an as-needed basis (i.e., in response to a collision, customer complaint, or other incident).
- Finance and Administration: these training hours are used by each employee in various ways based on their responsibilities and in consultation with his or her direct supervisor. For FY19-20, these included the CALPELRA Human Resources Conference, participating on the CalACT Board, participation at the twice-yearly CalTIP Board of Directors meetings, SDRMA Board Secretary training, procurement training, various collaborations with other transit agencies, and County of San Luis Obispo training sessions.

Standard 3: Enable our employees to achieve excellence in serving our customers by building teamwork and understanding effective communication within the organization.

Measurement: Subjective.

- Employees provided opportunity to provide feedback on organizational communication as part of the Executive Director’s annual evaluation.

We continually stress the tenets of *Verbal Defense and Influence*, which focuses on how to communicate more effectively with each other and our customers – particularly in difficult or threatening situations.

Standard 4: Employees will be evaluated annually in a fair and equitable way to judge performance and be provided a developmental plan for the next fiscal year.

Measurement: Objective.

- Employee merit evaluations will be provided to each employee annually with the evaluation grading measurement of attainment of department objectives developed during the budget process and achievement of RTA’s Standards and RTA’s KPIs.

The RTA currently completes formal annual evaluations for administration and management staff. Bus Operators, Technicians and Utility employees are evaluated based on the requirements of the Collective Bargaining Agreement (CBA) and to ensure the public's safety. Both Technicians and Bus Operators are also evaluated as part of the RTA Safety Awards program on their individual anniversary dates.

Standards of Excellence Section 5: Fleet and Facility – We will operate and maintain a modern and clean fleet and facilities that will be pleasing to our customers and a source of pride for our employees and our communities.

Standard 1: If funding permits, the RTA will match SLO Transit's standard of replacing revenue vehicles when they reach the FTA-defined useful life minimums in terms of service years or miles. If funding remains constrained, negotiate with SLO Transit to ensure neither agency's buses surpass 40% beyond the FTA standards.

Measurement: Objective.

- As tracked by Finance and Administration as part of grant-making efforts.

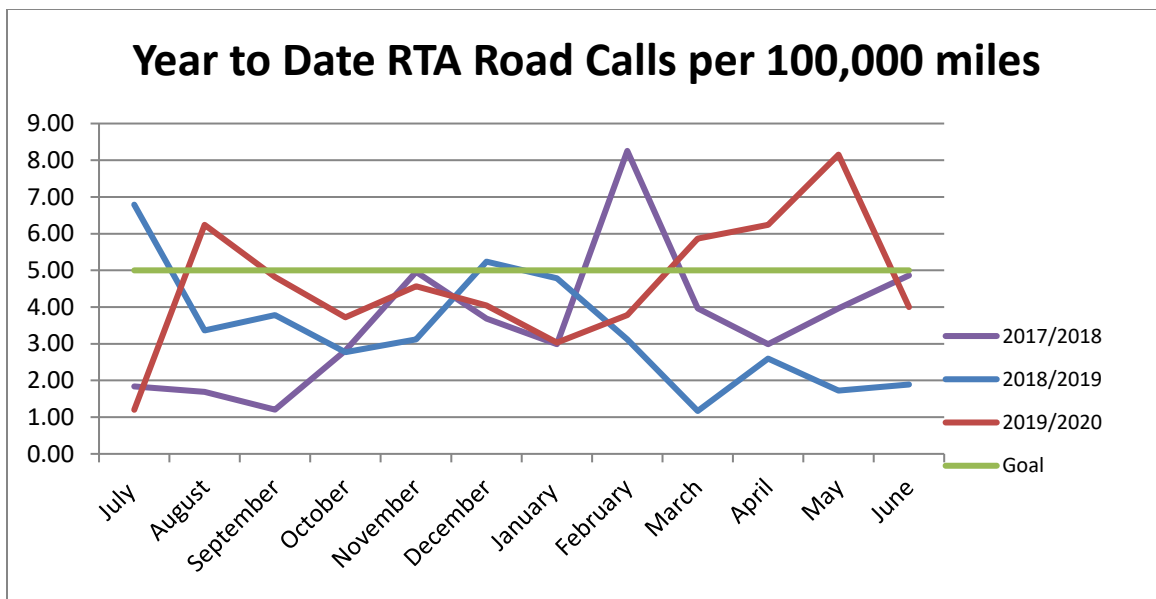
As of June 30, 2020 the average RTA fixed-route vehicle age (including Paso Express fixed-route vehicles) is 7 years with an average of 274,645 miles. The design life of a heavy-duty fixed-route bus is 12-years/500,000 miles. The average demand response vehicle age (including Runabout and other Dial-A-Ride vans) is 3 years with an average of 65,759 miles. The design life of a demand response van is 4-years/100,000 miles. We are currently within the RTA's standards. Our capital program was updated as part of the 2016 SRTP update, which was adopted by the RTA Board in July 2016. In addition, a five-year capital program is included in each annual budget document.

Standard 2: Road calls will not exceed five per 100,000 vehicle service miles. A road call is defined as all mechanical or other vehicle-related failures that affect the completion of a scheduled revenue trip or the start of the next scheduled revenue trip, including failures during deadheading and layover.

Measurement: Objective.

- As tracked and reported by the Maintenance Department, and reported biannually to the RTA Board.

As depicted in the graph below, this standard has been achieved in all but six months over the past three fiscal years. The year-end average was 3.6 in FY 17-18, 4.6 in FY 18-19 and 4.6 in FY 19/20. The RTA uses the same definition of a road call as used in the National Transit Database. We will closely track this standard as our fleet ages and/or if breakdowns appear to be happening more frequently.



Standard 3: Maintain a clean, attractive fleet. Maintain our facilities so that they are safe and appealing to customers and employees.

Measurement: Subjective.

- As measured by employee and customer feedback.

Based on the results of the Customer Perception Survey that was conducted in March 2020 prior to the COVID-19 pandemic, there are two questions that provide valuable information: “cleanliness of buses” and “bus exterior appearance,” which ranked at 3.4 and 3.5 out of four respectively. In an effort of focus on interior bus sanitation for the health and well-being of our staff and community in light of the COVID-19 pandemic, exterior cleanings have occurred less frequently since the surveys were conducted so we would anticipate current results would be lower for exterior but high for overall cleanliness. Due to the pandemic, employee surveys have been delayed – so we are unable to compare customer perceptions to employee perceptions as part of this annual report.

Standard 4: Achieve an 80% favorable rating of bus stop appearance by customers and the communities that we serve.

Measurement: Objective.

- As measured in the biannual Community Perception Survey.

Bus stop appearance included in 2020 survey resulted in a ranking of 3.2 out of 4, which equates to 82%. Although this meets the favorable standard, staff is developing a strategy to address this standard, including updating/replacing the bus stop signs for Paso Express. Staff also anticipates the remodel of the transit center downtown that was completed in May 2020 (after this survey was conducted) would favorably impact this ranking.

Standard 5: Achieve all federal- and state-mandated maintenance minimums, as well as vendor recommended maintenance schedules, for our fleet and facilities. The following standards apply:

- A. No negative CHP Annual Terminal Inspection, FTA Triennial Review or TDA Triennial Performance Audit findings.
- B. Preventative maintenance schedules for all equipment shall be done on a timely basis (3,000 mile intervals or as mandated by equipment OEM vendor).

Measurement: Objective.

- As tracked by the Maintenance Department, and reported annually to the RTA Board.

There were no negative findings in the 2019 TDA Triennial Performance Audit nor in the 2019 FTA Triennial Review. Preventable maintenance has been completed on a timely basis, with no CHP findings.

Standards of Excellence Section 6: Leadership – We will strive to be one of the nation’s leading small transit operators. We will work to maintain collaborative relationships within the industry, within our community, and with our stakeholders. We will develop future leaders from within our organization.

Standard 1: Maintain cooperative relationships with federal, state and local funding agencies.

Measurement: Subjective.

- Will be reviewed by staff and RTA Board.

Staff believes that we have fostered a strong relationship with our partners at the federal, state and local levels. If any issues arise (i.e., the recent COVID-19 pandemic), it is brought to the Board’s attention for direction. The Executive Director serves on the CTA Small Operators Committee, and also was re-elected as the Chairperson role for the CalTIP Board in April 2020.

Standard 2: Develop partnerships with stakeholders, community leaders and decision makers, while keeping them well informed of the integral role of RTA and contributions to the communities that we serve.

Measurement: Subjective.

- To be evaluated and monitored by RTA Board.

The agency’s partnership successes are formally discussed by the Board during the Executive Director’s annual evaluation. However, issues and ideas are also forwarded by community members to both the Board and staff throughout the year. The Executive Director also attends City Council and Board of Supervisors meetings throughout the year, as well as community outreach events and workshops.

Standard 3: Promote effective internal communications and promote the values of the organization.

Measure: Subjective.

- To be evaluated by Executive Director.

Promoting effective internal communication is a task that always requires high- and mid-level nurturing. Senior staff members meet weekly to discuss effective communications and our organizational values, while a broader group meet bi-weekly to strive to ensure messaging is consistent and useful. At the outset of the COVID-19 pandemic in early March 2020, senior staff met every morning to review operational responses and to plan for recovery actions. This has more recently been scaled back to twice weekly. Like any organization that is not afraid to “peel back the layers,” we often find examples of where we can improve and the Executive Director informs the Board President of on-going efforts. While we believe we are making strides, this is an area in which improvements can always be realized and the work is never “done.”

Standard 4: Provide effective leadership for public transportation within the County.

Measurement: Subjective.

- To be evaluated by Executive Director and RTA Board.

Similar to the discussion on Standard 3 above, the Executive Director’s leadership is evaluated annually as part of his review. The Executive Director also discusses leadership successes and goals with his three department heads as part of their annual evaluation. Finally, the Executive Director and other senior RTA staff discuss direction with other transit agency staff during quarterly RTAC meetings and other transit-focused meetings (i.e., FTA 5307 planning, UZA MOU discussions, SSTAC, etc.) throughout the year.

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**SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY
SEPTEMBER 2, 2020
STAFF REPORT**

AGENDA ITEM: B-1

TOPIC: Authorize New SLOCPT Rates for July 2021 Implementation

PRESENTED BY: Tania Arnold, Deputy Director/CFO

STAFF RECOMMENDATION: Implement Rate Increase in July 2021

BACKGROUND:

As previously discussed with your Board, the RTA joined the San Luis Obispo County Pension Trust in January of 2020.

Based on the County Pension Trust's 2020 actuarial study completed in June 2020, a pension contribution rate increase for miscellaneous employees (under which the eligible RTA employees fall) is required to achieve desired funding levels for the plan. The County of San Luis Obispo Board of Supervisors is expected to approve an amendment to the Pension Trust Retirement Plan adopting rate increases for the County and participating agencies, by the end of calendar year 2020. To meet our required funding obligation to the Pension Trust, the RTA must determine if the implementation date should be January 2021 or July 2021. A January 2021 implementation date would result in a 3.77% increase in rates, and a July 2021 implementation date would result in a 3.91% increase in rates.

Staff reviewed the fiscal impacts of the dates which are summarized below and detailed in the attachments:

Implementation Date	Fiscal Year 20-21 Cost	Fiscal Year 21-22 Cost
January 2021	\$21,000	\$44,210
July 2021	-	\$45,850

Although the July 2021 rate increase (3.91%) is higher than the January 2021 rate (3.77%), staff is recommending this July implementation date to coordinate with the timeline of when pay rate and benefit changes are traditionally implemented as part of the annual budget-making process.

Additionally, the Board may also determine how the increase should be implemented. Traditionally, any increases to the retirement program contribution rates were paid fully by the RTA, although the Board can direct staff to change this moving forward should it desire. This staff report assumes the RTA allocation method would remain unchanged.

Staff Recommendation

Approve the implementation date of July 2021 with a projected budget impact of \$45,850 for Fiscal Year 2021-22.

8/17/2020
10:44 AM

Administration and Service Delivery Totals

Administration:

Labor	Hours					
Labor - Administration Workers Comp	Miles	69,370	69,370			
		1,556,940	1,556,940			
	operations cost	1,042,550	1,054,090	11,540		24,820
	operations cost	47,000	47,000			
Office Space Rental	operations cost	493,320	493,320			
Property Insurance	operations cost	28,040	28,040			
Professional Technical Services	operations cost	117,400	117,400			
Professional Development	operations cost	60,070	60,070			
Operating Expense	operations cost	297,900	297,900			
Marketing and Reproduction	hourly	87,160	87,160			
North County Management Contract	operations cost	(44,440)	(44,440)			
County Management Contract	operations cost	(91,580)	(91,580)			
SCT Management Contract	operations cost	(126,660)	(126,660)			

Total Administration

Service Delivery:

Labor - Operations	hourly					
Labor - Operations Workers Comp	hourly	5,477,760	5,482,470	4,710		9,310
		319,920	319,920			
Labor - Maintenance	hourly	1,235,670	1,240,420	4,750		10,080
Labor - Maintenance Workers Comp	hourly	93,080	93,080			
Fuel	miles	968,920	968,920			
Insurance (Liability, Physical Damage, Employment Prac	miles	702,500	702,500			
Special Transportation (for SLOCAT)	n/a	48,340	48,340			
Avila Trolley	n/a	68,460	68,460			
Maintenance (parts, supplies, materials)	miles	633,320	633,320			
Maintenance Contract Costs	miles	128,580	128,580			

Total Operations

Contingency

hourly

Interest Expense

operations cost

Management Contracts

TOTAL FUNDING USES

Adopted Operating Budget FY2020-21	January 2021 CPT Rate Change FY2020-21	Cost Impact of January 2021 Rate Change FY2020-21	Projected Operating Budget FY2021-22	January 2021 CPT Rate Change FY2021-22	Cost Impact of January 2021 Change FY2021-22
69,370	69,370		69,660	69,660	
1,556,940	1,556,940		1,570,560	1,570,560	
1,042,550	1,054,090	11,540	1,120,070	1,144,890	24,820
47,000	47,000		50,490	50,490	
493,320	493,320		510,280	510,280	
28,040	28,040		33,160	33,160	
117,400	117,400		129,790	129,790	
60,070	60,070		70,540	70,540	
297,900	297,900		308,400	308,400	
87,160	87,160		107,740	107,740	
(44,440)	(44,440)		(47,740)	(47,740)	
(91,580)	(91,580)		(98,390)	(98,390)	
(126,660)	(126,660)		(136,080)	(136,080)	
1,910,760	1,922,300	11,540	2,048,260	2,073,080	24,820
5,477,760	5,482,470	4,710	5,819,150	5,828,460	9,310
319,920	319,920		339,860	339,860	
1,235,670	1,240,420	4,750	1,312,390	1,322,470	10,080
93,080	93,080		98,860	98,860	
968,920	968,920		968,920	968,920	
702,500	702,500		736,450	736,450	
48,340	48,340		51,350	51,350	
68,460	68,460		72,730	72,730	
633,320	633,320		613,550	613,550	
128,580	128,580		137,520	137,520	
9,676,550	9,686,010	9,460	10,150,780	10,170,170	19,390
139,050	139,300		146,390	146,920	
-	-		-	-	
262,680	262,680		282,210	282,210	
11,989,040	12,010,290	21,000	12,627,640	12,672,380	44,210

Administration and Service Delivery Totals

Administration:

Labor	Hours	69,660		
Labor - Administration Workers Comp	Miles	1,570,560		
Office Space Rental	operations cost	1,120,070	1,145,810	25,740
Property Insurance	operations cost	50,490	50,490	
Professional Technical Services	operations cost	510,280	510,280	
Professional Development	operations cost	33,160	33,160	
Operating Expense	operations cost	129,790	129,790	
Marketing and Reproduction	operations cost	70,540	70,540	
North County Management Contract	operations cost	308,400	308,400	
County Management Contract	hourly	107,740	107,740	
SCT Management Contract	operations cost	(47,740)	(47,740)	
	operations cost	(98,390)	(98,390)	
	operations cost	(136,080)	(136,080)	
Total Administration		2,048,260	2,074,000	25,740

Service Delivery:

Labor - Operations	hourly	5,819,150	5,828,810	9,660
Labor - Operations Workers Comp	hourly	339,860	339,860	
Labor - Maintenance	hourly	1,312,390	1,322,840	10,450
Labor - Maintenance Workers Comp	hourly	98,860	98,860	
Fuel	miles	968,920	968,920	
Insurance (Liability, Physical Damage, Employment Prac	miles	736,450	736,450	
Special Transportation (for SLOCAT)	n/a	51,350	51,350	
Avila Trolley	n/a	72,730	72,730	
Maintenance (parts, supplies, materials)	miles	613,550	613,550	
Maintenance Contract Costs	miles	137,520	137,520	
Total Operations		10,150,780	10,170,890	20,110

Contingency

hourly

146,390

146,940

Interest Expense

operations cost

-

Management Contracts

282,210

282,210

TOTAL FUNDING USES

12,627,640

12,674,040

45,850

SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY

SEPTEMBER 2, 2020

STAFF REPORT

AGENDA ITEM: **B-&**

TOPIC: **Financing of New Bus Maintenance Facility**

PRESENTED BY: **Geoff Straw**

STAFF RECOMMENDATION:

- 1. Approve Resolution Regarding:**
 - a. TIFIA Term Sheet**
 - b. TIFIA Loan Agreement**
 - c. Amended and Restated Collateral Accounts and Security Agreement**
- 2. Approve Amended and Restated Direction of LTF Funds between the RTA and SLOCOG**
- 3. Approve Amended and Restated Direction of Farebox Revenue between the RTA and the County of San Luis Obispo Auditor/Controller/Treasurer/Tax Collector**

SUMMARY:

The RTA has outgrown its current bus maintenance facility on leased premises and has received RTA Board approval to develop a new RTA Bus Maintenance Facility (the Project). The lease on the RTA's existing facility expires in February 2022 and staff continues to take action to ensure that the Project is constructed and operational before the lease term ends. The cost of the Project will be funded through a combination of secured State and Federal grants, as well as financing proceeds.

At the July 8, 2020 RTA Board meeting, staff reported the completion of the construction bid process providing staff with known Project costs of \$20,830,395 (\$16,873,000 contract with Specialty Construction, plus contingency, construction management, and commissioning) and the Board approved the construction services contract for the Project, as well as the interim and permanent financing package with Pacific Western Bank. Since that time, staff has finalized negotiations with the US Department of Transportation (US DOT) Build America Bureau for the long term financing through the Transportation Infrastructure Finance and Innovation Act (TIFIA) Rural Project Initiative (RPI). Staff is now returning to the Board with the second piece of the Project financing package and recommending the Board approve a Term Sheet from TIFIA to provide financing for the construction of the Project, and authorize the Executive Director to finalize a Loan Agreement with TIFIA based on the Term Sheet and items included in the close out checklist and execute an Amended and Restated Collateral Accounts and Security Agreement.

BACKGROUND:

Previously, the RTA Board has provided various approvals for staff to proceed with the planning, land purchase, environmental, design, engineering, construction and preliminary financing phases of the Project. All of such phases have been completed and have been fully funded with Federal, State, and Local funding sources. In anticipation of the cost and financing need associated with the construction phase of the Project, staff has taken a number of steps to secure the Project funding approach.

On September 25, 2018, the RTA was awarded a Department of Transportation grant to help fund the Project. The amount awarded was \$6.285 million, which was the largest grant amount awarded in California and was made possible by a unique community partnership between the RTA, SLOCOG, CAPSLO, and the City and County of San Luis Obispo.

At the November 7, 2018 RTA Board meeting, the Board authorized the agreement with KNN Public Finance, a municipal advisory firm, to assist staff with developing and evaluating funding alternatives for the Project construction. At the April 3, 2019 RTA Board meeting, Melissa Shick, a municipal advisor at KNN Public Finance, presented information regarding the range of financing alternatives available to the RTA to help fund the Project. One such alternative included a loan through the U.S. Department of Transportation (US DOT) Build America Bureau (BAB) – Transportation Infrastructure Finance and Innovation Act (TIFIA) program.

On May 31, 2019, and supplemented in August 2019, the RTA submitted a Letter of Interest to the US DOT to pursue funding through the TIFIA Loan program – and, specifically, under Rural Project Initiative (RPI). RPI is a new lending initiative that places an emphasis on rural transportation needs and offers some significant benefits and savings to rural sponsors – including, below market interest rates (50% of the UST rate), subsidized application fees, and all the same structuring flexibility afforded by the traditional TIFIA Loan program. RPI allows borrowers to fund up to 49% of total Project costs with TIFIA Loan proceeds. The RTA's Project will be the inaugural project funded through the RPI program.

At the July 10, 2019 RTA Board meeting, the Board authorized an agreement with Nossaman, LLP for special finance counsel services related to anticipated borrowings. Also included in the July 10, 2019 RTA Board meeting, staff further discussed the TIFIA Loan financing alternative and requested the Board authorize staff to continue to pursue this borrowing opportunity in tandem with other financing vehicles.

In September 2019, RTA staff provided a formal presentation to Moody's credit rating agency to achieve an indicative rating on the TIFIA Loan borrowing (a requirement of the US DOT/BAB credit review process). Moody's assigned the RTA with a strong indicative rating on the TIFIA Loan, which reflects the credit strengths of the RTA and is consistent with the credit ratings of the RTA's California transit agency peers.

On December 9, 2019, staff from the RTA, KNN, and Nossaman met with the US DOT/BAB staff and their advisors in Washington DC to formally present the Project for TIFIA Loan approval. Subsequent to the December meeting with the US DOT/BAB team, the RTA, KNN, and Nossaman have been in constant dialogue with US DOT/BAB with regard to their credit review and due diligence process. As the due diligence process was still underway and negotiations had not yet commenced on the form of TIFIA Loan Agreement with the US DOT, the execution and closing of the TIFIA Loan was delayed and expected later in the 2020 calendar year.

Later in December 2019, at staff's direction, KNN solicited commercial banks and received borrowing rate indications for the Bank Loan borrowing component to be executed in tandem with the TIFIA Loan. Given the prolonged TIFIA Loan process, the solicitation of permanent Bank Loan borrowing rates also included inquiry around interim or "bridge" funding solutions.

In March 2020, the RTA Board approved an initial term sheet from Pacific Western Bank to provide the financing for the construction of the Project, a debt management policy, and the initial direction re: direction of LTF funds.

In July 2020, the RTA Board approved the final term sheet from Pacific Western Bank and authorized the Executive Director, in coordination with County Counsel, to negotiate and execute:

- i. Credit and Security Agreement
- ii. Collateral accounts and security agreement (CASA)

Also at the July 2020 Board meeting, the Board also approved the Irrevocable Direction RE Deposit of LTF Funds between the RTA and SLOCOG and the Irrevocable Direction RE Deposit of Farebox Revenue between the RTA and the County of San Luis Obispo Auditor/Controller/Treasurer/Tax Collector. Additionally, the Board approved the award for construction to Specialty Construction, Inc.

DISCUSSION:

As noted during the July 2020 RTA Board meeting, staff had received construction bids for the Project, which has resulted in a reduction in the borrowing needed for the Project. Staff, with the advice and consultation of KNN and Nossaman, developed a revised plan of finance approach for the Project to address the projected funding gap through the combined borrowing of a TIFIA Loan and PacWest Bank Loan under a transit revenue appropriation security structure.

Revised Estimated Borrowing Need

The total revised estimated Project costs are now just over \$26.7 million (\$31.5 million previously), of which \$4.1 million is attributable to the land purchase and environmental/design phases that have already been fully funded. The remaining \$22.6 million of Project costs are attributable to estimated construction costs based on the bids received on June 4, 2020, in addition to furniture, fixture, and moving expenses, as well as estimated financing costs and construction contingency. RTA staff has secured

Federal and State grants to offset the cost of construction at approximately \$8.5 million leaving a remaining Project funding gap of \$14.1 million.

	Total Estimated Cost	Secured Funding		Funding Gap
		Federal Amount	State/Local Amount	
Land Purchase	\$1,512,602	\$0	\$1,512,602	\$0
Environmental & Design	\$2,554,486	\$905,787	\$1,648,699	\$0
Construction				
Total Construction Cost	\$20,830,395	\$6,285,662	\$2,259,426	\$12,285,308
Furniture, Fixtures, and Expenses	\$1,422,412			\$1,422,412
Financing Costs	\$392,280			\$392,280
(RTA legal, advisor, trustee, and rating agency fees)				
Sub-Total Construction, FF&E, and Financing Costs	\$22,645,088	\$6,285,662	\$2,259,426	\$14,100,000
Total RTA Bus Facility Budgeted Costs	\$26,712,175	\$7,191,449	\$5,420,727	\$14,100,000

Plan of Finance Approach

During previous meetings, including the July 2020 Board meeting, staff reviewed financing alternatives. At this time, after completing final negotiations with the US DOT, staff recommends proceeding with Plan A – TIFIA Loan and PacWest Bank Loan Financing. Based on successful negotiations with the US DOT and an “approved” TIFIA Loan application by the Secretary of the Department of Transportation, RTA does **NOT** need to move forward with the more expensive Plan B option of issuing certificates of participation in the municipal bond market.

The Project funding sources are summarized in the table below. Federal and State grants that staff has already secured contribute to 47% of total Project funding sources. The TIFIA Loan will provide 49% of the total Project funding needs, which is capped at this percentage contribution pursuant to Federal statute. A Bank Loan with PacWest satisfies the remaining 3% of Project funding requirements. Further, Federal funds, including the \$6.285 million that was awarded in the Fall of 2018 for construction, can be used to maximize Federal interest in the Project up to 80% – the current anticipated Federal interest is 76%.

Sources of Funding	\$	%
Federal Grants	\$7,191,449	26.9%
State Grants	\$5,420,727	20.3%
TIFIA Loan	\$13,080,000	49.0%
Pacific Western Bank Loan	\$1,020,000	3.8%
Total Sources:	\$26,712,175	100.0%
Funding Allocation		
Total Federal Funding (FTA Grants & TIFIA Loan)	\$20,271,449	76%
Total Other Funding (State Grants & Bank Loan)	\$6,440,727	24%
Total Funding	\$26,712,175	100%

- **TIFIA Loan (\$13 Million):** The TIFIA/RPI program offers the RTA significantly reduced borrowing cost and annual budgetary benefits. Notably, at the time of closing on the TIFIA Loan, the RTA will lock-in a fixed interest rate for a 35-year term based on 50% of the then current US Treasury rate. By way of illustration, if current US Treasury rates remained unchanged between now and the time of closing on the TIFIA Loan, then the RTA's interest cost on a 35-year obligation would be 0.68% (based on a 30-year UST rate just shy of 1.36% as of August 24, 2020). The TIFIA Loan program typically requires high upfront fees to cover US DOT/BAB legal and advisor costs; however, under RPI a limited amount of Federal funds are available to cover such costs and the RTA's upfront TIFIA program costs have been fully offset. ***The TIFIA Loan can be prepaid and redeemed at any time.***
- **PacWest Bank Loan (\$1 Million) (approved at the July 2020 Board meeting and closed on July 21, 2020):** PacWest currently serves as the County of San Luis Obispo and the RTA's bank and has provided a strong interest and commitment to the Project. On January 22, 2020, PacWest offered an initial term sheet which was reviewed by the RTA, KNN, and Nossaman. KNN provided an analysis of the PacWest Term Sheet and proposed borrowing rates against other commercial bank proposals to ensure PacWest proposal was sufficiently aggressive relative to market comparables. Based on market indications, PacWest was willing to reduce its initially proposed borrowing rate to be more in-line with comparable banks. The adjustment resulted in a fixed 3.0% rate in addition to a \$14,100 upfront fee (which is reflected in the Financing Cost line-item of the Project budget), and lender's counsel fees capped at \$35,000.

The PacWest Term Sheet and Loan Agreement approved by the Board accomplished two key objectives of the financing process:

1. Line of Credit – Provided access to funds over a two-year “draw down” or construction period for the **total** required borrowing amount of approximately \$14.1 million which allowed the RTA to proceed with construction irrespective of finalization of the TIFIA Loan process.
2. Permanent Loan – Secured permanent Project funding needs of \$1 million that together with the TIFIA Loan (whose size is capped under Federal statutes) closed the total Project funding gap.

With the expected TIFIA Loan closing on September 3, 2020, the RTA does not expect to draw on the PacWest Line of Credit above the \$1 million. The PacWest Loan can be prepaid and redeemed at any time.

Loan Repayment and Security Structure

The proposed structure for loan repayment aims to achieve fixed level annual payments to support ongoing budget certainty. Following an interest only payment period over the course of the construction period (2 years), the PacWest Bank Loan is expected to amortize from July 1, 2023 through July 1, 2025 (3 years) and the TIFIA Loan will pay

interest only during that period and begin amortizing on July 1, 2026 through July 1, 2056.

Based on the secured PacWest Bank Loan rate of 3.0% and an estimated TIFIA Loan rate of 0.68%, projected aggregate annual debt service payments equate to approximately \$470,000. ***The estimated annual debt service requirement is less than the RTA's prior/terminating annual fixed payments – payments on 2011 loan that matured in 2018 were \$220,000 and the lease payment on current administration and maintenance facility of \$477,000 will terminate in Fiscal Year 2020-21, together totaling \$697,000.***

Further, the RTA has directed SLOCOG to deposit ALL of the RTA's allocated LTF funds on each calendar quarter basis (when LTF funds are received by SLOCOG from the State) with the Collateral Agent (Trustee) who will deposit from these amounts into the debt service accounts held by the Collateral Agent (the Irrevocable Direction RE Deposit of LTF Funds). Any amount of LTF funds not required to make the quarterly debt service deposits will be transferred to the RTA by the Collateral Agent.

The Irrevocable Direction RE Deposit of LTF Funds will be in effect until such time that the RTA's financial obligations under the Loan Agreements have been satisfied. The SLOCOG Board approved this request at the June 3, 2020 SLOCOG Board meeting. Although this has been revised (Attachment D), the revision does not include any substantive changes and therefore will not be going back to the SLOCOG Board but we are including it as part of this staff report.

Under the TIFIA and PacWest Bank Loan Agreements, RTA will covenant to budget and appropriate from all legally available sources of revenue (other than federal grant funds) amounts necessary to repay debt service on the TIFIA Loan. These sources include LTF, STA, and farebox revenues.

Senate Bill 450 Disclosures

The following information is made available in accordance with recently enacted California legislation (Senate Bill 450 Chapter 625 of the 2017-2018 Session of the California Legislature as codified in Government Code Section 5852.1) to provide certain public disclosures related to the Bank Loan and TIFIA Loan. Certain figures are estimates and are subject to final market conditions:

Bank Loan

A. True Interest Cost of the Bank Loan. Based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the true interest cost of the Bank Loan, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the Bank Loan, is 3.00%.

B. Finance Charge of the Bank Loan. Based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the finance charge of the Bank Loan, which means the sum of all fees and charges paid to third parties (or costs associated with the Bank Loan), is \$108,600.

C. Net Proceeds of the Bank Loan. Based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the amount of proceeds expected to be received by the RTA for sale of the Bank Loan less the finance charge of the Bank Loan described in B. above and any reserves or capitalized interest paid or funded with proceeds of the Bank Loan is \$911,400.

D. Total Payment Amount for the Bank Loan. Based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the total payment amount, which means the sum total of all payments the RTA, through the payment of principal and interest, will make to pay debt service on the Bank Loan plus the finance charge of the Bank Loan described in paragraph B. above not paid with the proceeds of the Bank Loan calculated to the final maturity of the Bank Loan, is \$1,128,586.

TIFIA Loan

A. True Interest Cost of the TIFIA Loan. Based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the true interest cost of the TIFIA Loan, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the TIFIA Loan, is 0.68%.

B. Finance Charge of the TIFIA Loan. Based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the finance charge of the TIFIA Loan, which means the sum of all fees and charges paid to third parties (or costs associated with the TIFIA Loan), is \$283,680.

C. Net Proceeds of the TIFIA Loan. Based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the amount of proceeds expected to be received by the RTA for sale of the Bank Loan less the finance charge of the Bank Loan described in B. above and any reserves or capitalized interest paid or funded with proceeds of the Bank Loan is \$12,796,320.

D. Total Payment Amount for the TIFIA Loan. Based on market interest rates prevailing at the time of preparation of this information, a good faith estimate of the total payment amount, which means the sum total of all payments the RTA, through the payment of principal and interest, will make to pay debt service on the Bank Loan plus the finance charge of the TIFIA Loan described in paragraph B. above not paid with the proceeds of the TIFIA Loan calculated to the final maturity of the TIFIA Loan, is \$14,904,506.

Staff Recommendation

1. Approve resolution:
 - a. Approving the term sheet from TIFIA (**Attachment A**) to provide financing for the construction of a new Bus Maintenance Facility project
 - b. Authorizing the Executive Director, in coordination with County Counsel, to negotiate and execute:
 - i. Loan Agreement (draft included as **Attachment B**)
 - ii. Amended and Restated Collateral Accounts and Security Agreement (CASA) (draft included as **Attachment C**)
2. Approve the Amended and Restated Irrevocable Direction RE Deposit of LTF Funds (**Attachment D**) between the RTA and SLOCOG.
3. Approve the Amended and Restated Irrevocable Direction RE Deposit of Farebox Revenue (**Attachment E**) between the RTA and the County of San Luis Obispo Auditor/Controller/Treasurer/Tax Collector.

SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY

RESOLUTION NO. 20-_____

**RESOLUTION APPROVING FINANCING WITH THE UNITED STATES
DEPARTMENT OF TRANSPORTATION - TRANSPORTATION INFRASTRUCTURE
FINANCE AND INNOVATION ACT - TO PROVIDE FINANCING FOR THE
CONSTRUCTION OF A NEW BUS MAINTENANCE FACILITY**

WHEREAS, the San Luis Obispo Regional Transit Authority (RTA) is developing a new bus maintenance facility project in the City of San Luis Obispo (Project) and therefore solicited bids from contractors; and

WHEREAS, based on current cost estimates and a preliminary financing plan as described to this Board, the RTA will need to finance a portion of the cost of the Project; and

WHEREAS, the financing of the Project will produce significant public benefits, including
(a) demonstrable savings in effective interest rate, debt preparation, debt underwriting, and debt issuance costs, and
(b) significant reductions in effective user charges levied by the RTA for its transit service; and

WHEREAS, on July 21, 2020, the RTA executed a Credit Agreement with Pacific Western Bank (Bank), and a Collateral Accounts and Security Agreement (CASA) with the Bank and U.S. Bank National Association based substantially on the terms and conditions and fees as set forth in the draft Credit Agreement, CASA and fee schedule presented to this Board also on July 21, 2020; and

WHEREAS, the RTA received a term sheet (Term Sheet) from the United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau (TIFIA Lender) setting forth certain terms and conditions for a loan to the Borrower from the TIFIA Lender for the balance of the financing needs of the Project and the RTA Board desires to delegate to the Executive Director the authority to negotiate and execute the Term Sheet with the TIFIA Lender on substantially the terms and conditions as set forth in the draft Term Sheet, attached hereto as Attachment A; and

WHEREAS, the RTA Board desires to delegate to the Executive Director the authority to negotiate and execute the TIFIA Loan Agreement (Agreement) with the TIFIA Lender on substantially the terms and conditions and fees as set forth in the draft Agreement, attached hereto as Attachment B; and

WHEREAS, the RTA Board desires to delegate to the Executive Director the authority to negotiate and execute an Amended and Restated Collateral Accounts and Security Agreement (A&R CASA) with the Bank, the TIFIA Lender, and U.S. Bank National

Association on substantially the terms and conditions and fees as set forth in the draft A&R CASA, attached hereto as Attachment C.

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the Board of Directors of the San Luis Obispo Regional Transit Authority that:

1. The Executive Director or designee is authorized to negotiate and execute the Term Sheet on substantially the terms and conditions as set forth in the draft Term Sheet, attached hereto as Attachment A, and the Term Sheet is hereby approved.
2. The Executive Director or designee is authorized to negotiate and execute the Agreement on substantially the terms and conditions and fees as set forth in the draft Agreement, attached hereto as Attachment B, and the Agreement and the transactions contemplated thereby (including RTA's performance of its obligations thereunder) are hereby approved.
3. The Executive Director or designee is authorized to negotiate and execute the A&R CASA on substantially the terms and conditions and fees as set forth in the draft A&R CASA, attached hereto as Attachment C, and the A&R CASA and the transactions contemplated thereby (including RTA's performance of its obligations thereunder) are hereby approved.
4. The Executive Director or designee is authorized to negotiate and execute any other documents, certificates, agreements or other instruments necessary, desirable or appropriate to give effect to the Agreement, the A&R CASA and the transactions contemplated in the Agreement or the A&R CASA, and such documents, certificates, agreements and other instruments and the transactions contemplated thereby (including RTA's performance of its obligations thereunder) are hereby approved.

Upon motion of Delegate _____, seconded by Delegate _____, and on the following roll call, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

The foregoing resolution is hereby passed and adopted by the San Luis Obispo Regional Transit Authority of San Luis Obispo County, State of California, at a regular meeting of said Board of Directors held on the 2nd day of September 2020.

ATTEST:

Fred Strong
RTA Board President

Geoff Straw
RTA Executive Director

APPROVED AS TO FORM AND LEGAL EFFECT:

Rita Neal
County Counsel

By: _____
Nina Negranti
RTA Counsel

Dated: _____
(Original signature in BLUE ink)

Attachment A

UNITED STATES DEPARTMENT OF TRANSPORTATION

San Luis Obispo Regional Transit Authority
179 Cross Street,
San Luis Obispo, CA 93401-7597

Re: Secured Loan Term Sheet for the San Luis Obispo Regional Authority O&M Facility
(TIFIA Project No. 2020-1006A)

Ladies and Gentlemen:

This Secured Loan Term Sheet constitutes the commitment of the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “Department”) to provide financing to San Luis Obispo Regional Transit Authority (the “Borrower”) for the above-referenced project (the “Project,” as further described below) in the form of a secured loan (the “Secured Loan”) pursuant to the Transportation Infrastructure Finance and Innovation Act of 1998 (“TIFIA” or the “Act”), §1501 *et seq.* of Public Law 105-178 (as amended by Public Law 105-206, Public Law 109-59, Public Law 112-141, and Public Law 114-94), as codified at 23 U.S.C. §§601-609.

The Project consists of the construction of a new transit vehicle maintenance and administration facility to be constructed and owned by the Borrower and located at 253 Elks Lane, San Luis Obispo, CA 93401-5410 in the City of San Luis Obispo, California. The current estimate of Eligible Project Costs (as defined in the Act) is \$26,712,175.

The Department’s commitment of TIFIA credit assistance to the Project is being made available pursuant to the Secretary of Transportation’s approval of the Secured Loan on August 7, 2020, based on the application received on July 8, 2020, and the supplemental information and documents, including the financial model, provided to the Department. This Secured Loan Term Sheet establishes only the parties, the maximum original principal amount of the Secured Loan, the dedicated repayment sources, the maximum term of the Secured Loan, and the method of determining the interest rate on the Secured Loan.

By executing this Secured Loan Term Sheet, the Borrower agrees to reimburse the Department for or pay for any and all fees and expenses the Department incurs for legal counsel, financial advice, and other consultants in connection with the evaluation of the Project and negotiation and preparation of a TIFIA Loan Agreement (the “TIFIA Loan Agreement”), whether or not such agreement is ultimately executed.

This Secured Loan Term Sheet is a legal commitment of the Department only to the terms specified herein. It is subject in all respects to the execution of the TIFIA Loan Agreement on terms and conditions acceptable to the Department. Capitalized terms used and not otherwise defined herein have the meanings assigned to them in the TIFIA Loan Agreement.

This Secured Loan Term Sheet shall be governed by the federal laws of the United States of America if and to the extent such federal laws are applicable and the internal laws of the state of California, if and to the extent such federal laws are not applicable.

SECURED LOAN TERMS

TIFIA LENDER	United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau.
BORROWER	San Luis Obispo Regional Transit Authority, a joint powers authority created under the laws of the State of California, with an address of 179 Cross Street, San Luis Obispo, CA 93401-7597.
ORIGINAL PRINCIPAL AMOUNT OF SECURED LOAN	Not to exceed \$13,080,000; <u>provided</u> that (a) the maximum original principal amount of the Secured Loan, together with the amount of any other credit assistance provided under the Act for the Project, shall not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs and (b) the total federal assistance provided to the Project, including the original principal amount of the Secured Loan and all federal direct or indirect grants, shall not exceed eighty percent (80%) of Eligible Project Costs.
DEDICATED REPAYMENT SOURCE / SECURITY	<p>The Secured Loan will be repaid from “Revenues.” Revenues will be used to pay debt service in respect of the TIFIA Loan and in respect of any Pari Passu Obligations or Subordinated Obligations that may be issued by the Borrower from time to time. As more fully described in the TIFIA Loan Agreement, the Borrower's Farebox Revenues are subject to a pledge and security interest in favor of the TIFIA Lender and the Borrower's other secured lenders, and the LTF Funds will not be subject to a legal pledge but will be the primary source of funds to pay the Secured Loan.</p> <p>“<u>Revenues</u>” means: (a) all LTF Funds allocated to the Borrower and (b) all Farebox Revenues and contract service revenues received by or on behalf of the Borrower in connection with the operation of transit vehicles owned or leased by the Borrower, and (c) all Other Revenues received by or on behalf of the Borrower.</p>
TERM	The Final Maturity Date of the Secured Loan shall be the earlier of (a) the Payment Date occurring on or immediately prior to the thirty-fifth (35 th) anniversary of the Substantial Completion Date and (b) July 1, 2056.

INTEREST RATE	<p>The Secured Loan shall bear interest at a fixed rate, calculated by adding one basis point (.01%) to one half the interest rate of securities of a similar maturity as published, on the execution date of the TIFIA Loan Agreement, in the United States Treasury Bureau of Public Debt's daily rate table for State and Local Government Series (SLGS) securities, currently located on the Internet at https://www.treasurydirect.gov/GA-SL/SLGS/selectSLGSDate.htm. Interest shall be computed on the basis of a 365- or 366-day year, as appropriate, for the actual number of days elapsed. The Secured Loan shall also bear interest at a default rate of two hundred (200) basis points above the otherwise applicable interest rate at such times and upon such terms as is provided in the TIFIA Loan Agreement.</p>
COUNTERPARTS	<p>This Secured Loan Term Sheet and any amendments, waivers, consents, or supplements hereto or in connection herewith may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.</p>

[Signature Pages to Follow]

If the foregoing terms are acceptable, please countersign this Secured Loan Term Sheet in the space indicated below.

Sincerely,

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

By: _____

Name: Dr. Morteza Farajian

Title: Executive Director, Build America
Bureau

Date: _____

ACKNOWLEDGED AND AGREED TO:

**SAN LUIS OBISPO REGIONAL
TRANSIT AUTHORITY,**
by its authorized official

By: _____

Name:

Title:

Date: _____

Attachment B

**UNITED STATES
DEPARTMENT OF TRANSPORTATION**

TIFIA LOAN AGREEMENT

For Up to \$13,080,000

With

SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY

For the

**O&M FACILITY PROJECT
(TIFIA – 2020-1006A)**

Dated as of September [__], 2020

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EXHIBIT D – Requisition Procedures

EXHIBIT E – Compliance With Laws

EXHIBIT F – [Reserved.]

EXHIBIT G – TIFIA Debt Service

EXHIBIT H-1 – Opinions Required from Counsel to Borrower

EXHIBIT H-2 – Opinions Required from Bond Counsel to Borrower

EXHIBIT I – Form of Certificate of Collateral Agent

EXHIBIT J – Form of Borrower’s Officer’s Certificate

EXHIBIT K – Form of Certificate of Substantial Completion

EXHIBIT L – Certification Regarding Lobbying

EXHIBIT M – Form of SLOCOG Irrevocable Instruction

EXHIBIT N – Form of Farebox Bank Irrevocable Instruction

TIFIA LOAN AGREEMENT

THIS TIFIA LOAN AGREEMENT (this “**Agreement**”), dated as of the Effective Date, is by and between the **SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY**, a joint powers authority created under the laws of the State of California (the “**State**”), with an address of 179 Cross Street, San Luis Obispo, California 93401 (the “**Borrower**”), and the **UNITED STATES DEPARTMENT OF TRANSPORTATION**, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau (the “**Executive Director**”), with an address of 1200 New Jersey Avenue, S.E., Washington, D.C. 20590 (the “**TIFIA Lender**”).

RECITALS:

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

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

WHEREAS, the Borrower has requested that the TIFIA Lender make the TIFIA Loan (as defined herein) in a principal amount not to exceed \$13,080,000 to be used to pay a portion of the Eligible Project Costs (as defined herein) related to the Project (as defined herein) pursuant to the application for TIFIA credit assistance received on July 8, 2020 (the “**Application**”); and

WHEREAS, on August 7, 2020, the Secretary (as defined herein) approved TIFIA credit assistance for the Project in the form of the TIFIA Loan; and

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

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

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

NOW, THEREFORE, the premises being as stated above, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged to be adequate, and

intending to be legally bound hereby, it is hereby mutually agreed by and between the Borrower and the TIFIA Lender as follows:

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

“Acceptable Credit Rating” means, with respect to any Person, the rating of its unsecured, senior long-term indebtedness (or, if such Person has no such rating, then its issuer rating or corporate credit rating) is no lower than (a) at the time such Person executes, delivers or issues a Liquidity Facility or a policy of bond insurance, surety bond, guarantee or similar instrument, ‘A+’, ‘A1’ or the equivalent rating from each Nationally Recognized Rating Agency that provides a rating on such Person’s unsecured, senior long-term indebtedness or that provides an issuer rating or corporate credit rating for such Person, as applicable; and (b) at any time thereafter, ‘A’, ‘A2’ or the equivalent rating from each Nationally Recognized Rating Agency that provides a rating on such Person’s unsecured, senior long-term indebtedness or that provides an issuer rating or corporate credit rating for such Person, as applicable.

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

“Additional Obligations” means Pari Passu Obligations that are permitted under Section 16(a) (*Indebtedness*) and that are issued or incurred after the Effective Date and shall also satisfy the following requirements, as applicable:

(a) if the proceeds thereof will be used to refinance other Pari Passu Obligations, (i) such Additional Obligations shall only refinance Obligations of the same payment and lien priority as the Obligations being refinanced, (ii) the net proceeds thereof (after deducting any amounts required to be deposited to satisfy the applicable Debt Service Reserve Required Balance), must not exceed the principal amount of the Obligations being refinanced, (iii) Debt Service in respect of all Pari Passu Obligations, after the incurrence of such Additional Obligations, in each year of the term of such Additional Obligations, must be projected to be less than the Debt Service in respect of all Pari Passu Obligations projected for each such year in the Base Case Financial Model or, if applicable, the Revised Financial Model and (iv) final maturity of the Additional Obligations must not be later than the final maturity date of the Obligations being refinanced; and

(b) if the proceeds thereof will be used for any reason not described in clause (a) above, such Additional Obligations must receive an Investment Grade Rating and the Borrower’s Authorized Representative shall have certified to the TIFIA Lender, and if a Consulting Engineer has been retained, the Consulting Engineer shall have confirmed, that (i) the activity or project to which such Additional Obligations will be applied could not reasonably be expected to result in a Material Adverse Effect, and (ii) the LTF Funds allocated to the Borrower and deposited into the Revenue Account and Farebox Revenues received by or on behalf of the Borrower, in the aggregate, during any twelve (12)

consecutive months during the eighteen (18) months prior to the date of the issuance of such Additional Obligations were at least equal to 2.0x MADS;

provided that (x) for each of clauses (a) and (b) above, no Event of Default under any Other Financing Document or any TIFIA Loan Document has occurred and is continuing, and (y) for clause (b) above, the Nationally Recognized Rating Agency that provided the most recent public ratings of the Pari Passu Obligations and the TIFIA Loan in accordance with Section 15(j) (*Annual Rating*) shall have provided a confirmation or affirmation (or the equivalent) that the incurrence of such Additional Obligations shall not result in a downgrade of the lower of (A) the then-existing credit ratings of the Pari Passu Obligations and the TIFIA Loan, respectively, and (B) the credit ratings of the Pari Passu Obligations and the TIFIA Loan, respectively, as of the Effective Date.

“Adjusted Debt Service Amount” means the sum of the amounts described in clauses (a), (b) and (c) below:

(a) for the PWB Debt Service Sub-Account, an amount equal to (i) the interest due on the PWB Loan on the next Semi-Annual Payment Date, plus (ii) (A) for any Payment Period beginning on July 1, fifty percent (50%) of the principal due on the PWB Loan on the next Annual Payment Date or (B) for any Payment Period beginning on January 1, one hundred percent (100%) of the principal due on the PWB Loan on the next Annual Payment Date, plus (iii) any fees, costs, expenses and other amounts then due and payable under the PWB Loan Agreement;

(b) for the TIFIA Debt Service Sub-Account, an amount equal to (i) the interest due on the TIFIA Loan on the next Semi-Annual Payment Date plus (ii) (A) for any Payment Period beginning on July 1, fifty percent (50%) of the principal due on the TIFIA Loan on the next Annual Payment Date or (B) for any Payment Period beginning on January 1, one hundred percent (100%) of the principal due on the TIFIA Loan on the next Annual Payment Date, plus (iii) any fees, costs, expenses and other amounts then due and payable under the TIFIA Loan Agreement; and

(c) for each other applicable sub-account of the Pari Passu Debt Service Account, an amount equal to (i) the interest due on the applicable Pari Passu Obligation with respect to such account on the next Semi-Annual Payment Date plus (ii) (A) for any Payment Period beginning on an Annual Payment Date, fifty percent (50%) of the principal due on the applicable obligation with respect to such account on the next Annual Payment Date or (B) for any Payment Period that does not begin on an Annual Payment Date, one hundred percent (100%) of the principal due on the applicable obligation with respect to such account on the next Annual Payment Date; provided that if the principal on any applicable Pari Pass Obligation is payable on a semi-annual basis, clause (ii) shall read “the principal due on the applicable obligation with respect to such account on the next semi-annual principal payment date for such Pari Passu Obligations”, plus (iii) any fees, costs, expenses and other amounts then due and payable under the issuing document for the applicable Pass Passu Obligation with respect to such account.

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

“Annual Payment Date” means (a) for the TIFIA Loan, each July 1 or if such day is not a Business Day, then the Business Day immediately succeeding such date, commencing July 1, 2026, (b) for the PWB Loan, each July 1, or if such day is not a Business Day, then the Business Day immediately succeeding such date, for so long as the PWB Loan is outstanding, commencing from the initial principal payment date provided in the PWB Loan Agreement, and (c) for any other Pari Passu Obligations, the date on which principal is payable on such Pari Passu Obligations as set forth in, and commencing from the initial principal payment date provided in, the documents pursuant to which such Pari Passu Obligations were incurred.

“Anticipated TIFIA Loan Disbursement Schedule” means the schedule set forth in **Exhibit B**, reflecting the anticipated disbursement of proceeds of the TIFIA Loan, as such schedule may be amended from time to time pursuant to Section 4(f) (*Disbursement Conditions*).

“Anti-Corruption Laws” means all laws, rules and regulations of any jurisdiction from time to time concerning or relating to bribery or corruption.

“Anti-Money Laundering Laws” means all U.S. and other applicable laws, rules and regulations of any jurisdiction from time to time concerning or related to anti-money laundering, including but not limited to those contained in the Bank Secrecy Act and the Patriot Act.

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

“Assumed Variable Rate” means, as of the date of calculation, (a) with respect to indebtedness issued by the Borrower that bears interest at a tax-exempt Variable Interest Rate, a rate equal to the highest twelve (12)-month rolling average of the SIFMA Swap Index over the preceding ten (10) years, and (b) with respect to indebtedness issued by the Borrower that bears interest at a taxable Variable Interest Rate, a rate equal to the highest twelve (12)-month rolling average of the Federal Funds Rate over the preceding ten (10) years. If either of the foregoing indices ceases to be published, the applicable index shall be an index which the TIFIA Lender, in consultation with the Borrower, determines most closely replicates the applicable former index.

“Authorizing Legislation” means California Government Code Sections 5450 et seq. and 6584 et seq.

“Bank Lender” means Pacific Western Bank, as the lender under the PWB Loan.

“Bank Secrecy Act” means the Bank Secrecy Act of 1970 (Titles I and II of Pub. L. No. 91-508, codified as amended in various sections of 12 U.S.C. and 31 U.S.C.), as amended, and the regulations promulgated thereunder.

“Bankruptcy Related Event” means, with respect to the Borrower,

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

for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered;

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

(c) (i) the Collateral Agent shall commence a process pursuant to which all or a substantial part of the Collateral may be sold or otherwise disposed of in a public or private sale or disposition pursuant to a foreclosure of the Liens thereon securing the TIFIA Loan or any Obligations, or (ii) the Collateral Agent shall commence a process pursuant to which all or a substantial part of the Collateral may be sold or otherwise disposed of pursuant to a sale or disposition of such Collateral in lieu of foreclosure; or

(d) the Collateral Agent shall transfer, pursuant to directions issued by the Secured Lenders, funds on deposit in any of the Project Accounts upon the occurrence and during the continuation of an Event of Default under this Agreement or the Other Financing Documents for application to the prepayment or repayment of any principal amount of the TIFIA Loan or any Obligations other than in accordance with the provisions of this Agreement or the Other Financing Documents.

“Base Case Financial Model” means a financial model prepared by the Borrower that includes (a) for each time period through the Final Maturity Date, a forecast of Revenues and the Borrower’s expenditures and funding obligations, and (b) the Project Budget, which model, in each case in clauses (a) and (b) above, shall be based upon assumptions and methodology provided by the Borrower and acceptable to the TIFIA Lender as of the Effective Date, and which model shall be provided to the TIFIA Lender as a fully functional Microsoft Excel – based financial model or such other format requested by the TIFIA Lender.

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

“Borrower Fiscal Year” means (a) as of the Effective Date, a fiscal year of the Borrower commencing on July 1 of any calendar year and ending on June 30 of the immediately succeeding calendar year or (b) such other fiscal year as the Borrower may hereafter adopt after giving thirty (30) days’ prior written notice to the TIFIA Lender, as provided in Section 16(f) (*Organizational Documents; Fiscal Year*).

“Borrower’s Authorized Representative” means any Person who shall be designated as such pursuant to Section 25 (*Borrower’s Authorized Representative*).

“Business Day” means any day other than a Saturday, a Sunday or a day on which offices of the Federal Government or the State are authorized to be closed or on which commercial banks are authorized or required by law, regulation or executive order to be closed in New York, New York, San Luis Obispo County, California or Los Angeles, California.

“Calculation Date” means each January 1 and July 1 occurring after the Effective Date.

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

“Capital Appreciation Obligations” means any Obligations as to which interest is payable only at the maturity or prior redemption of such Permitted Debt.

“Capital Expenditures” means expenditures made or liabilities incurred for the acquisition of any assets, improvements or replacements thereof that have a useful life of more than one (1) year and that are capitalized in accordance with GAAP.

“CASA” means that certain Amended and Restated Collateral Accounts and Security Agreement, dated as of September [___], 2020, by and among the Borrower, the Bank Lender, the TIFIA Lender, the Collateral Agent, the Securities Intermediary (as defined therein), and the other Secured Parties party thereto from time to time, including any Accession Agreement (as defined in the CASA) thereto executed in accordance with the CASA.

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

“Collateral” means all of the right, title and interest of the Borrower, whether now owned or hereafter acquired or arising, in and to (a) the Farebox Revenues, whether now earned or hereafter acquired and (b) the Project Accounts (other than those sub-accounts of the Pari Passu Debt Service Account that exclusively secure any Pari Passu Obligations), including the TIFIA Debt Service Sub-Account and the TIFIA Debt Service Reserve Sub-Account, all security entitlements carried therein, and all cash, cash equivalents, Permitted Investments (as defined in the CASA), instruments, Securities (as defined in the CASA) and other funds or amounts on deposit in the Project Accounts.

“Collateral Agent” means U.S. Bank National Association, a national banking association.

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

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

“Construction-Related Contracts” means (a) that certain Professional Services Agreement (Agreement Number 20-02), dated as of January 8, 2020, between the Borrower and Kitchell, (b) that certain Professional Services Agreement (Agreement Number 20-01), dated as of July 10, 2019, between the Borrower and 3C Engineering, (c) that certain Agreement, dated as

of July 21, 2020, between the Borrower and Specialty Construction, Inc., and (d) any other design or construction contract related to the design and construction of the Project entered into by the Borrower from time to time after the Effective Date.

“Construction-Related Contract Party” means any Person (other than the Borrower) party to a Constructed-Related Contract.

“Construction Schedule” means (a) the initial schedule or schedules on which the construction timetables for the Project are set forth, attached as **Schedule II**, and (b) any updates thereto included in the Financial Plan most recently submitted to the TIFIA Lender pursuant to Section 21(a)(iii)(B) (*Financial Plan*).

“Consulting Engineer” means Stantec Architecture, or any replacement engineering firm selected by the Borrower, subject to Section 22(d).

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

“CPI” means the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, 1982-84=100 (not seasonally adjusted), or its successor, published by the Bureau of Labor Statistics, with, unless otherwise specified herein, January 2020 as the base period.

“Cross Covenant Default” has the meaning provided in Section 19(a)(vi) (*Cross Default to Financing Documents*).

“Cross Misrepresentation Default” has the meaning provided in Section 19(a)(vi) (*Cross Default to Financing Documents*).

“Debt Service” means, with respect to Pari Passu Obligations, for any period, as of any date of calculation, an amount equal to the sum of all interest and principal of such Pari Passu Obligations accruing and payable in respect of such period. In determining the principal and interest amounts of Pari Passu Obligations due in such period (unless a subsection below of this definition applies for purposes of determining such amounts), payment shall be assumed to be made in accordance with any debt service schedule established for such Pari Passu Obligations, including any balloon or bullet maturities (which shall be treated as being paid in full on their respective due dates), as applicable, and for such purpose the redemption payment shall be deemed a principal payment.

In calculating Debt Service for any future period (except as otherwise specifically provided herein):

- (a) any Variable Interest Rate Debt for which the interest rate payable thereon has not yet been determined shall be deemed to bear interest at all times prior to the maturity date thereof at the Assumed Variable Rate;

(b) any Put Obligations outstanding during such period which by its terms is required to be paid by the Borrower upon tender by the holder thereof shall be assumed to mature on the earliest to occur of (i) the stated maturity date thereof, (ii) the earliest date as of which the holder of such Put Obligations may tender such Put Obligations to the Borrower, as provided in the applicable issuing document for such debt, and (iii) if the Liquidity Facility securing such Put Obligations expires within six (6) months or less of the date of calculation and has not been renewed or replaced, the expiration date of such Liquidity Facility;

(c) the principal amount of any Put Obligations tendered for payment by the Borrower that is required to be paid by the Borrower and that has not yet been purchased in lieu of such payment by the Borrower shall be deemed to mature on the date required to be paid pursuant to such tender; and

(d) Extendible Maturity Debt outstanding during such period shall be deemed to mature on the earlier of the stated maturity date or the date to which such stated maturity date has been extended, unless such extension is not exercisable at the discretion of the Borrower.

“Debt Service Payment Commencement Date” the first Semi-Annual Payment Date following the initial draw on the TIFIA Loan.

“Debt Service Reserve Required Balance” means, as applicable, the TIFIA Debt Service Reserve Required Balance or any Pari Passu Debt Service Reserve Required Balance.

“Default” means any event or condition that, with the giving of notice, the passage of time, or both, would constitute an Event of Default.

“Default Rate” means an interest rate equal to the sum of (a) the TIFIA Interest Rate plus (b) two percent (2.00%).

“Deferred Interest Obligations” means any Obligations (a) as to which interest accruing thereon prior to the applicable Interest Commencement Date of such Permitted Debt is (i) compounded on each Valuation Date for such Deferred Interest Obligation and (ii) payable only at the maturity or prior redemption of such Permitted Debt and (b) as to which interest accruing after the applicable Interest Commencement Date is payable on the first interest payment date immediately succeeding the Interest Commencement Date and thereafter on the dates specified in or determined pursuant to the instrument authorizing the Permitted Debt.

“Development Default” means (a) the Borrower fails to diligently prosecute the work related to the Project and, if a Recovery Plan has been provided in accordance with Section 22(b)(ii) (*Recovery Plan*), in accordance with such Recovery Plan, or (b) the Borrower fails to complete the Project by February 5, 2025.

“Effective Date” means the date of this Agreement.

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

- (a) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work and other preconstruction activities;
- (b) construction, reconstruction, rehabilitation, replacement and acquisition of real property (including land related to the Project and improvements to land), environmental mitigation, construction contingencies and acquisition of equipment; or
- (c) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses and other carrying costs during construction;

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

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

“Environmental Laws” has the meaning provided in Section 13(s) (*Environmental Matters*).

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

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

“Event of Default” has the meaning provided in Section 19(a) (*Events of Default and Remedies*).

“Event of Loss” means any event or series of events that causes any portion of the Project to be damaged, destroyed or rendered unfit for normal use for any reason whatsoever, including through a failure of title, or any loss of such property, or a condemnation.

“Executive Director” has the meaning provided in the preamble hereto.

“Existing Indebtedness” means indebtedness of the Borrower that has been issued or incurred prior to the Effective Date, as listed and described in **Schedule III**.

“Extendible Maturity Debt” means debt the maturity of which may be extended in accordance with the applicable issuing document for such debt.

“Farebox Bank” means each financial institution, Governmental Authority, or other entity that receives, or directs the deposit and transfer of, Farebox Revenues on behalf of the Borrower (whether based on cash receipts, credit/debit card charges, or wire transfers in connection with bulk purchases or payments that supplement subsidized rate fare collections). Initially, the Farebox Bank consists of Pacific Western Bank and the Auditor/Controller/Treasurer/Tax Collector of the County of San Luis Obispo.

“Farebox Bank Irrevocable Instruction” means (a) that certain Amended and Restated Irrevocable Direction re Deposit of Farebox Revenues, in the form of **Exhibit N**, dated as of September [___], 2020, among the Borrower, the Auditor/Controller/Treasurer/Tax Collector of County of San Luis Obispo, California and the other signatories thereto and (b) any irrevocable direction, in the form of **Exhibit N**, issued by the Borrower to a Farebox Bank and acknowledged and agreed to by such Farebox Bank from time to time in connection with the designation of any new Farebox Bank.

“Farebox Recovery Ratio” means [the farebox recovery ratio calculated for the Borrower pursuant to the requirements of [_____]}.¹]

“Farebox Revenues” means all farebox revenues and contract service revenues received by or on behalf of the Borrower in connection with the operation of the transit vehicles owned or leased by the Borrower, including:

- (a) revenues earned under contractual arrangements with public or private entities, either (i) for transit fares for a specified group of employees, members, or clients, or (ii) to guarantee a minimum revenue on a line operated especially for the benefit of the paying entity (e.g., an employer, shopping center, university, etc.);
- (b) cash donations made by individual passengers or community organizations in lieu of a prescribed fare;
- (c) passenger fares collected by the Borrower;
- (d) fare subsidies from a public or private entity;
- (e) local support, including passenger donations and local business contributions made to benefit employees, customers, visitors, or residents;
- (f) parking revenues used as fare subsidies; and
- (g) support from private non-profits to supplement discount or zero fares.

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

¹ **Note to Borrower:** Please provide the appropriate reference for the statute(s) that set forth the farebox recovery ratio calculation.

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day.

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

“Final Maturity Date” means the earlier of (a) July 1, 2056 and (b) the Payment Date occurring on or immediately prior to the thirty-fifth (35th) anniversary of the Substantial Completion Date.

“Financial Plan” means (a) the financial plan to be delivered within sixty (60) days after the Effective Date in accordance with Section 21(a) (*Financial Plan*) and (b) any updates thereto required pursuant to Section 21(a) (*Financial Plan*).

“Financial Statements” has the meaning provided in Section 13(x) (*Financial Statements*).

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

“FTA Master Agreements” means, collectively, (a) the Federal Transit Administration Master Agreement, FTA MA (26), dated October 1, 2019, as the same may be supplemented or amended from time to time, (b) any other Federal Transit Administration Master Agreement for any prior or future Federal Fiscal Years that is applicable to any federal funds awarded in respect of the Project, as each may be supplemented or amended from time to time, (c) each annual certification and assurance for FTA assistance programs executed by the Borrower with respect to any Federal Transit Administration Master Agreement described in clauses (a) or (b) (including the Federal Fiscal Year 2020 Certifications and Assurances for FTA Assistance Programs executed by the Borrower), and (d) any award notification for federal funds awarded in respect of the Project that contains special conditions or requirements, if issued.

“FTA Project Management Oversight Requirements” means the requirements and conditions for project management oversight procedures set forth in 49 U.S.C. § 5327 and in 49 C.F.R. part 633.

“FTA Regional Office” means the United States Department of Transportation, Federal Transit Administration, Region IX Office.

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

“Government Obligations” means (a) direct obligations of, or obligations on which the timely payment of principal and interest are fully and unconditionally guaranteed by, the Federal Government, (b) bonds, debentures or notes issued by any of the following federal agencies: Banks for Cooperatives, Federal Intermediate Credit Banks, Federal Home Loan Banks, Export-Import Bank of the United States, Government National Mortgage Association or Federal Land

Banks, (c) obligations issued or guaranteed by a Person Controlled or supervised by and acting as an instrumentality of the Federal Government pursuant to authority granted by the Congress, and (d) evidences of ownership of proportionate interests in future interest or principal payments on obligations specified in clauses (a), (b) and (c) of this definition held by a bank or trust company as custodian and which underlying obligations are not available to satisfy any claim of the custodian or any Person claiming through the custodian or to whom the custodian may be obligated, in each case.

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

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

“Indemnitee” has the meaning provided in Section 17 (*Indemnification*).

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

“Interest Commencement Date” means, with respect to any particular Deferred Interest Obligation, the date determined by the instrument authorizing such Deferred Interest Obligation after which interest accruing on such Deferred Interest Obligation shall be payable on the first interest payment date succeeding such Interest Commencement Date and periodically thereafter on the dates determined pursuant to such authorizing instrument.

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

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

“Liquidity Facility” means any letter of credit, standby bond purchase agreement, line of credit or similar instrument, or any agreement relating to the reimbursement of any payment thereunder (or any combination of the foregoing), which is obtained by the Borrower and is issued by a financial institution, insurance provider or other Person and which provides security or liquidity in respect of any Permitted Debt.

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

“LTF Funds” means Local Transportation Funds distributed by the State pursuant to the TDA.

“MADS” means the maximum amount of TIFIA Debt Service and Debt Service in respect of all Pari Passu Obligations payable, in the aggregate, during any year while the TIFIA Loan or any such Pari Passu Obligations are (or are scheduled to be) outstanding.

“Material Adverse Effect” means a material adverse effect on (a) the Project (until the Substantial Completion Date) or the Revenues, (b) the business, operations, properties, condition (financial or otherwise) or prospects of the Borrower (c) the legality, validity or enforceability of any material provision of any Other Financing Document or TIFIA Loan Document, (d) the ability of the Borrower to enter into, perform or comply with any of its material obligations under any Other Financing Document or TIFIA Loan Document to which it is a party, (e) the validity, enforceability or priority of the Liens provided pursuant to the Authorizing Legislation or under the CASA on the Collateral in favor of the Secured Parties or (f) the TIFIA Lender’s rights or remedies available under any TIFIA Loan Document.

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

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

“NEPA Determination” means the Categorical Exclusion for the Project issued by the FTA Regional Office on September 29, 2017 and affirmed (upon a change in Project scope) by the FTA Regional Office on September 19, 2019, in accordance with NEPA.

“No Transfer Conditions” means (a) amounts on deposit in the Pari Passu Debt Service Account (or the applicable sub-accounts thereunder) are at least equal to the Adjusted Debt Service Amount and (b) (i) amounts on deposit in the TIFIA Debt Service Reserve Sub-Account are at least equal to the TIFIA Debt Service Reserve Required Balance, (ii) amounts on deposit in the PWB Debt Service Reserve Sub-Account are at least equal to the PWB Debt Service Reserve Required Balance (as defined in the CASA), and (iii) amounts on deposit in each other applicable sub-account of the Pari Passu Debt Service Reserve Account are at least equal to the Pari Passu Debt Service Reserve Required Balance for such sub-account.

“No Transfer Order” has the meaning provided in the CASA.

“Obligations” means, as of any date, issued and outstanding Pari Passu Obligations and Subordinated Obligations.

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

“Organizational Documents” means: (a) with respect to any Person that is a Governmental Authority, (i) the constitutional and statutory provisions that are the basis for the existence and authority of such Governmental Authority, including any enabling statutes, ordinances or public charters and any other organic laws establishing such Governmental Authority and (ii) the bylaws, code of regulations, operating procedures or other organizational documents of or adopted by such Governmental Authority by which such Governmental Authority, its powers, operations or procedures or its securities, bonds, notes or other obligations are governed or from which such powers are derived; and (b) with respect to a Person that is not a Governmental Authority, (i) to the extent such Person is a corporation, the certificate or articles of incorporation and the by-laws of such Person, (ii) to the extent such Person is a limited liability company, the certificate of formation or articles of formation or organization and operating or limited liability company agreement of such Person and (iii) to the extent such Person is a partnership, joint venture, trust or other form of business, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization or formation of such Person. The “Organizational Documents” of the Borrower shall include the San Luis Obispo Regional Transit Authority Joint Powers Agreement, dated as of March 9, 1990, as amended on September 2, 1998 and April 16, 2013, by and among the incorporated cities of Arroyo Grande, Atascadero, El Paso de Robles, Grover Beach, Morro Bay, Pismo Beach and San Luis Obispo, all being municipal corporations in the County of San Luis Obispo, California, as further amended, amended and restated, or otherwise modified from time to time.

“Other Financing Documents” means (a) the PWB Loan Agreement, (b) each indenture, contract or other definitive document pursuant to which any Existing Indebtedness is issued, (c) with respect to any indebtedness issued by the Borrower after the Effective Date, the indenture, contract or other definitive document pursuant to which any such indebtedness is issued by the Borrower after the Effective Date, (d) each Liquidity Facility, and (e) each other agreement, instrument and document executed and delivered pursuant to or in connection with any of the foregoing.

“Other Revenues” means any revenues of the Borrower (other than LTF Funds allocated to the Borrower, Farebox Revenues and federal grant funds), including (a) all STA Funds allocated to the Borrower, (b) all income derived from Permitted Investments, (c) proceeds from business interruption and delay in start-up insurance policies, and (d) revenue from any lease or other contract (including advertising revenues).

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

“Pari Passu Debt Service Account” has the meaning provided in the CASA.

“Pari Passu Debt Service Reserve Required Balance” means, at any time, (a) for the PWB Debt Service Reserve Sub-Account, the PWB Debt Service Reserve Required Balance (as

defined in the CASA) and (b) for any other Pari Passu Debt Service Reserve Sub-Account, the amount required to be on deposit in such Pari Passu Debt Service Reserve Sub-Account as set forth in the documents pursuant to which the applicable Pari Passu Obligations were incurred.

“Pari Passu Debt Service Reserve Sub-Account” means any sub-account of the Pari Passu Debt Service Reserve Account (as defined in the CASA) established pursuant to the CASA for any Pari Passu Obligations, including the PWB Debt Service Reserve Sub-Account.

“Pari Passu Obligations” (a) Existing Indebtedness that is *pari passu* with the TIFIA Note, including the PWB Loan, and (b) any Additional Obligations that are *pari passu* with the TIFIA Note.

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

“Payment Date” means each Semi-Annual Payment Date (January 1 and July 1) and each Annual Payment Date (July 1).

“Payment Default” has the meaning provided in Section 19(a)(i) (*Payment Default*).

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

“Permitted Debt” means:

- (a) Existing Indebtedness;
- (b) the TIFIA Loan;
- (c) Additional Obligations permitted under Section 16(a) (*Indebtedness*); and
- (d) purchase money obligations or capitalized leases incurred to finance discrete items of equipment not comprising an integral part of the Project that are treated as operating expenses in the Borrower’s annual budget, which obligations and leases do not require payments by the Borrower in any Borrower Fiscal Year in excess of \$250,000 in the aggregate.

“Permitted Investments” means (with respect to the investment of the proceeds of the TIFIA Loan or any debt proceeds account or reserve account established and maintained pursuant to the CASA):

- (a) Government Obligations;
- (b) certificates of deposit where the certificates are collaterally secured by securities of the type described in clause (a) of this definition and held by a third party as

escrow agent or custodian, of a market value not less than the amount of the certificates of deposit so secured, including interest, but this collateral is not required to the extent the certificates of deposit are insured by the Federal Government;

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

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

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

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

“Project” means the new transit vehicle maintenance and administration facility to be constructed and owned by the Borrower and located at 253 Elks Lane, San Luis Obispo, CA 93401 in the City of San Luis Obispo, California.

“Project Accounts” has the meaning provided in the CASA.

“Project Budget” means the budget for the Project in the aggregate amount of \$26,712,175 attached to this Agreement as **Schedule I** showing a summary of Total Project Costs with a breakdown of all Eligible Project Costs and the estimated sources and uses of funds for the Project, as amended from time to time subject to the reporting requirements in Section 22(b) (*Reporting*).

“Projected Substantial Completion Date” means February 5, 2022.

“Put Obligations” means any debt which by its terms may be tendered by and at the option of the holder thereof for payment prior to the stated maturity or redemption date thereof either (a) by the Borrower and by the Person and/or from the source specified in the applicable issuing document for such debt or (b) without recourse to the Borrower, by the Person and/or from the source specified in the applicable issuing document for such debt.

“PWB Debt Service Sub-Account” has the meaning provided in the CASA.

“PWB Debt Service Reserve Sub-Account” has the meaning provided in the CASA.

“PWB Loan” means the loan under the PWB Loan Agreement.

“PWB Loan Agreement” means that certain Credit Agreement, dated as of July 21, 2020, between the Borrower and the Bank Lender.

“Qualified Issuer” means (i) with respect to a letter of credit, any bank or trust company authorized to engage in the banking business that is organized under or licensed as a branch or agency under the laws of the United States of America or any state thereof that has an Acceptable Credit Rating and (ii) with respect to a surety instrument, an insurance company or other financial institution that is authorized and qualified to do business by the state insurance commissioner of its jurisdiction of organization and of the State and that has a financial strength rating of at least "A-" or its equivalent from A.M. Best or a Nationally Recognized Rating Agency and a financial size category rating of at least VII or its equivalent from A.M. Best or a Nationally Recognized Rating Agency.

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

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

“Related Documents” means the Other Financing Documents and the TIFIA Loan Documents.

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

“Revenue Account” has the meaning provided in the CASA.

“Revenues” means (a) all LTF Funds allocated to the Borrower, (b) all Farebox Revenues received by or on behalf of the Borrower and (c) all Other Revenues received by or on behalf of the Borrower.

“Revised Financial Model” means an updated version of the Base Case Financial Model, taking into account changes in projected Revenues, expenditures or other modeling assumptions since the delivery of the Base Case Financial Model (or, as applicable, the most recently submitted Revised Financial Model).

“Sanctioned Country” means, at any time, a country or territory which is itself the subject or target of any Sanctions.

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC or the U.S. Department of State, (b) any Person operating, organized or resident in a Sanctioned Country, or (c) any Person owned or Controlled by any such Person or Persons.

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the Federal Government, including those administered by OFAC or the U.S. Department of State.

“Secretary” means the United States Secretary of Transportation.

“Secured Lender” means, when used with respect to the TIFIA Note, the TIFIA Lender and, when used with respect to any other indebtedness issued by the Borrower from time to time, the owner of such indebtedness.

“Secured Obligations” means the obligations of the Borrower under this Agreement and the TIFIA Note, the Pari Passu Obligations and the Subordinated Obligations.

“Secured Parties” means the Collateral Agent, the TIFIA Lender, and any other Secured Lenders.

“Semi-Annual Payment Date” means (a) for the TIFIA Loan, each January 1 and July 1 or if any such day is not a Business Day, then the Business Day immediately succeeding such date, commencing on the Debt Service Payment Commencement Date, (b) for the PWB Loan, each January 1 and July 1, or if any such day is not a Business Day, then the Business Day immediately succeeding such date, for so long as the PWB Loan is outstanding, commencing from the initial payment date provided in the PWB Loan Agreement, and (c) for any other Pari Passu Obligations, the date or dates on which interest is payable on such Pari Passu Obligations as set forth in, and commencing from the initial interest payment date provided in, the documents pursuant to which such Pari Passu Obligations were incurred.

“Senior Debt Service Coverage Ratio (Farebox Revenues)” means, for any Calculation Period, the ratio of (a) Farebox Revenues received (or projected to be received, as applicable) by or on behalf of the Borrower during such Calculation Period to (b) MADS.

“Senior Debt Service Coverage Ratio (Farebox Revenues and LTF Funds)” means, for any Calculation Period, the ratio of (a) Farebox Revenues received (or projected to be received, as applicable) by or on behalf of the Borrower and LTF Funds deposited (or projected to be deposited, as applicable) by or on behalf of the Borrower into the Revenue Account, in the aggregate, during such Calculation Period to (b) MADS.

“Senior Debt Service Coverage Ratios” means (a) the Senior Debt Service Coverage Ratio (Farebox Revenues) and (b) the Senior Debt Service Coverage Ratio (Farebox Revenues and LTF Funds).

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

“SLOCOG” means the San Luis Obispo Council of Governments, a joint powers authority created under the laws of the State.

“SLOCOG Irrevocable Instruction” means that certain Amended and Restated Irrevocable Direction re Deposit of LTF Funds, in the form of **Exhibit M**, dated as of September [___], 2020, among the Borrower, SLOCOG and the other signatories thereto.

“STA Funds” means State Transit Assistance funds distributed by the State pursuant to the TDA.

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

“Subordinated Obligations” means indebtedness of the Borrower that is subordinate to the TIFIA Loan and the Pari Passu Obligations in right of payment and in lien priority, payable solely from Revenues remaining after the payment of all higher priority Obligations in accordance with Section 5.03(b) of the CASA, and issued on terms and conditions satisfactory to the TIFIA Lender.

“Substantial Completion” means (a) all work under the Construction-Related Contracts for the Project (other than “punchlist” items and work which is to be done after the Project has passed its “acceptance tests” or “performance tests” (however defined under such Construction-Related Contracts)) has been completed substantially in accordance with such Construction-Related Contracts and the requirements of all Governmental Approvals related thereto and (b) the “acceptance tests” or “performance tests” (however defined) under such applicable Construction-Related Contracts have been performed and successfully completed and the Project has achieved the minimum levels specified in such Construction-Related Contracts for such “acceptance tests” or “performance tests”.

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

“TDA” means California Government Code Section 29530 – 29536, California Public Utilities Code Section 99200 – 99408, and Title 21 California Code of Regulations Section 6600 – 6756.

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

“TIFIA Debt Service” means with respect to any Payment Date occurring on or after the Debt Service Payment Commencement Date, the principal portion of the Outstanding TIFIA Loan Balance and any interest payable thereon (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower) at the TIFIA Interest Rate (or, as applicable, the Default Rate), in each case due and payable on such Payment Date in accordance with the provisions of Section 9(b) (*Payment of TIFIA Debt Service*).

“TIFIA Debt Service Sub-Account” has the meaning provided in the CASA.

“TIFIA Debt Service Reserve Required Balance” means, as of any date, an amount equal to fifty percent (50%) of the principal and interest payments on the TIFIA Loan due and payable during the then-current Borrower Fiscal Year.

“TIFIA Debt Service Reserve Sub-Account” has the meaning provided in the CASA.

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

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

“TIFIA Lender’s Authorized Representative” means the Executive Director and any other Person who shall be designated as such pursuant to Section 26 (*TIFIA Lender’s Authorized Representative*).

“TIFIA Loan” means the secured loan made by the TIFIA Lender to the Borrower on the terms and conditions set forth herein, pursuant to the Act, in a principal amount not to exceed \$13,080,000, to be used in respect of Eligible Project Costs paid or incurred by or on behalf of the Borrower.

“TIFIA Loan Documents” means this Agreement, the TIFIA Note, the CASA, all filings, recordings or registrations required by the other TIFIA Loan Documents to be filed or made in respect of the CASA, the SLOCOG Irrevocable Instruction, each Farebox Bank Irrevocable Instruction, and the FTA Master Agreements.

“TIFIA Note” means the promissory note delivered by the Borrower in substantially the form of **Exhibit A**.

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

“Tranche B of the PWB Loan” has the meaning provided for the term “Tranche B” in the PWB Loan Agreement.

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

the Borrower and the Borrower does not control the administrative agency or governmental officer or body; provided that the diligent contest in good faith of any such order or judgment shall not constitute or be construed as a willful or negligent action or a lack of reasonable diligence of the Borrower.

“**Uniform Commercial Code**” or “**UCC**” means the Uniform Commercial Code, as the same may, from time to time, be in effect in the State of California.

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

“**Valuation Date**” means the date or dates on or prior to the Interest Commencement Date set forth in the instrument authorizing any Deferred Interest Obligations on which specific amounts for such date or dates are assigned to such Deferred Interest Obligations in accordance with the instrument authorizing such Deferred Interest Obligations.

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

“**Variable Interest Rate Debt**” means Permitted Debt which bears a Variable Interest Rate but does not include any Permitted Debt for which the interest rate has been fixed during the remainder of the term thereof to maturity.

Section 2. Interpretation. Unless the context shall otherwise require, the words “hereto”, “herein”, “hereof”, and other words of similar import refer to this Agreement as a whole. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders and vice versa. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise require. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” Whenever the Borrower’s knowledge is implicated in this Agreement or the phrase “to the Borrower’s knowledge” or a similar phrase is used in this Agreement, the Borrower’s knowledge or such phrase(s) shall be interpreted to mean to the best of the Borrower’s knowledge after reasonable and diligent inquiry and investigation. Unless the context shall otherwise require, references to any Person shall be deemed to include such Person’s successors and permitted assigns. Unless the context shall otherwise require, references to preambles, recitals, sections, subsections, clauses, schedules, exhibits, appendices and provisions are to the applicable preambles, recitals, sections, subsections, clauses, schedules, exhibits, appendices and provisions of this Agreement. The schedules and exhibits to this Agreement, and the appendices and schedules to such exhibits, are hereby incorporated by reference and made an integral part of this Agreement. The headings or titles of this Agreement and its sections, schedules or exhibits, as well as any table of contents, are for convenience of reference only and shall not define or limit its provisions. Unless the context shall otherwise require, all references to any resolution, contract, agreement, lease or other document shall be deemed to include any amendments or supplements to, or modifications or restatements or

replacements of, such documents that are approved from time-to-time in accordance with the terms thereof and hereof. Every request, order, demand, application, appointment, notice, statement, certificate, consent or similar communication or action hereunder by any party shall, unless otherwise specifically provided, be delivered in writing in accordance with Section 36 (*Notices; Payment Instructions*) and signed by a duly authorized representative of such party.

Section 3. TIFIA Loan Amount. The principal amount of the TIFIA Loan shall not exceed \$13,080,000. TIFIA Loan proceeds shall be disbursed from time-to-time in accordance with Section 4 (*Disbursement Conditions*) and Section 12(b) (*Conditions Precedent to All Disbursements*).

Section 4. Disbursement Conditions.

(a) TIFIA Loan proceeds shall be disbursed solely in respect of Eligible Project Costs paid or incurred by or on behalf of the Borrower in connection with the Project, and proceeds from the initial disbursement of the TIFIA Loan shall be used to pay or redeem Tranche B of the PWB Loan in full. If the Borrower intends to utilize the TIFIA Loan proceeds to make progress payments for the Project construction work performed under the Construction-Related Contracts, the Borrower shall demonstrate to the satisfaction of the TIFIA Lender that such progress payments are commensurate with the value of the work that has been completed. Each disbursement of the TIFIA Loan shall be made pursuant to a requisition and certification (a “**Requisition**”) in the form set forth in **Appendix One** to **Exhibit D**, along with all documentation and other information required thereby, submitted by the Borrower to, and approved by, the TIFIA Lender, all in accordance with the procedures of **Exhibit D** and subject to the requirements of this Section 4 (*Disbursement Conditions*) and the conditions set forth in Section 12(b) (*Conditions Precedent to All Disbursements*); provided, however, that no disbursements of TIFIA Loan proceeds shall be made on or after the date that is one (1) year after the Substantial Completion Date.

(b) The Borrower shall deliver copies of each Requisition to the TIFIA Lender, the Servicer (if any) and the FTA Regional Office on or before the first (1st) Business Day of each month for which a disbursement is requested. If the TIFIA Lender shall expressly approve a Requisition or shall not expressly deny a Requisition, disbursements of funds shall be made on the fifteenth (15th) day of the month for which a disbursement has been requested, or on the next succeeding Business Day if such fifteenth (15th) day is not a Business Day. Express TIFIA Lender approval or denial shall be substantially in the form annexed hereto as **Appendix Two** to **Exhibit D**. In no event shall disbursements be made more than once each month.

(c) If the Borrower anticipates using a portion of the proceeds of the TIFIA Loan to repay the outstanding principal amount of, and interest on, Tranche B of the PWB Loan, the Borrower shall deliver by no later than the date that is thirty (30) days prior to the date it submits its initial Requisition hereunder, and concurrently to the TIFIA Lender, the FTA Regional Office, and the Servicer (if any), invoices and records evidencing Eligible Project Costs (the “**Eligible Project Costs Documentation**”) in amounts at least equal to such outstanding principal amount of, plus interest due and payable on, Tranche B of the PWB Loan, irrespective of whether such costs were actually paid with the proceeds of Tranche B of the PWB Loan.

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

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

(ii) that such proceeds of Tranche B of the PWB Loan were expended solely in connection with the payment or reimbursement of Eligible Project Costs;

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

(iv) that there does not currently exist any Event of Default or Default or, if there does currently exist an Event of Default or Default, the certificate shall specify all the actions that the Borrower is taking to remedy such Event of Default or Default.

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

(f) The Borrower may amend the Anticipated TIFIA Loan Disbursement Schedule by submitting a revised version thereof to the TIFIA Lender no later than thirty (30) days prior to the proposed effective date of such amendment, together with a detailed explanation of the reasons for such revisions.

(g) Notwithstanding anything to the contrary set forth in this Agreement (including this Section 4, Section 12 (*Conditions Precedent*) or **Exhibit D**), in no event shall the TIFIA Lender have any obligation to make any disbursement of proceeds of the TIFIA Loan to the Borrower if the TIFIA Lender's ability to make such disbursement is impaired as a result of a partial or total shutdown of the operations of any federal department or agency (including the USDOT or any of its agencies), or any contractor of any such department or agency, due to a lapse in appropriations by Congress.

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

Section 6. Interest Rate. The interest rate with respect to the Outstanding TIFIA Loan Balance (the "**TIFIA Interest Rate**") shall be [] percent ([]%) per annum. Interest

will be computed on the Outstanding TIFIA Loan Balance (as well as on any past due interest) from time-to-time on the basis of a 365-day or 366-day year, as appropriate, for the actual number of days elapsed; provided, however, in the event of a Payment Default, the Borrower shall pay interest on the Outstanding TIFIA Loan Balance and on any interest accrued thereon but unpaid as of the applicable Semi-Annual Payment Date (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower) at the Default Rate from (and including) its due date to (but excluding) the date of actual payment. Upon the occurrence of any other Event of Default, the Borrower shall pay interest on the Outstanding TIFIA Loan Balance and on any interest accrued thereon but unpaid as of the applicable Semi-Annual Payment Date (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower) at the Default Rate from (and including) the date such Event of Default first occurred to (but excluding) the earlier to occur of (a) the date such Event of Default has been waived by the TIFIA Lender and (b) the date the Outstanding TIFIA Loan Balance and any interest accrued thereon (at the Default Rate) but unpaid has been irrevocably paid in full in cash.

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

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

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

Section 8. Security and Priority; Flow of Funds.

(a) As security for the TIFIA Loan, the Borrower shall (i) pledge, assign and grant to the Collateral Agent for the benefit of the TIFIA Lender, a senior Lien on the Collateral described in clause (a) of the definition thereof and (ii) assign and grant to the Collateral Agent for the benefit of the TIFIA Lender, a senior Lien on the Collateral described in clause (b) of the definition thereof, including an exclusive Lien on the TIFIA Debt Service Sub-Account and the TIFIA Debt Service Reserve Sub-Account and the amounts on deposit in each such account, in each case in accordance with the provisions of the CASA. The TIFIA Loan shall be secured by the Liens on the Collateral and shall be *pari passu* with the Liens on the Collateral in favor of the Pari Passu Obligations. In addition to the foregoing, for so long as the TIFIA Loan remains outstanding, the Borrower shall cause all LTF Funds allocable to it to be deposited to the Revenue Account in accordance with this Agreement, the CASA and the other applicable TIFIA Loan Documents to ensure the timely payment of all TIFIA Debt Service and other amounts due and payable hereunder or under such other TIFIA Loan Documents.

(b) Except (i) for the Liens granted pursuant to the Other Financing Documents or the TIFIA Loan Documents in respect of Permitted Debt described in clauses (a) through (c) of the definition thereof, or (ii) to the extent otherwise provided in clause (a) of this Section 8 (*Security and Priority; Flow of Funds*), the Collateral will be free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge of the Borrower created under the CASA, and all organizational, regulatory or other necessary action on the part of the Borrower with respect to the foregoing has been duly and validly taken.

(c) The Borrower shall not use LTF Funds allocated to the Borrower or Farebox Revenues to make any payments or satisfy any obligations other than in accordance with the provisions of this Section 8 (*Security and Priority; Flow of Funds*), the Other Financing Documents and the TIFIA Loan Documents and shall not apply any portion of the LTF Funds allocated to the Borrower or Farebox Revenues in contravention of this Agreement, the Other Financing Documents or the TIFIA Loan Documents. The TIFIA Loan will be payable from all Revenues and will be a senior obligation of the Borrower in right of payment from (and claim on) all Revenues, *pari passu* with the Pari Passu Obligations.

(d) The CASA provides that all LTF Funds allocated to the Borrower and all Farebox Revenues shall, subject to Section 5.03(g) thereof, be deposited in the Revenue Account and amounts on deposit in the Revenue Account shall be applied in the order of priority described in Section 5.03(b) of the CASA, a copy of which Section 5.03(b), as of the Effective Date, is attached as **Schedule IV** (all capitalized terms used in **Schedule IV** and not otherwise defined in this Agreement shall have the meanings ascribed in the CASA).

Section 9. Payment of Principal and Interest.

(a) Payment Dates. The Borrower agrees to pay the principal of and interest on the TIFIA Loan by making payments in accordance with the provisions of this Agreement and the CASA on each Payment Date, beginning on the Debt Service Payment Commencement Date, and on each other date on which payment thereof is required to be made hereunder (including the Final Maturity Date and any date on which payment is due by reason of the acceleration of the maturity of the TIFIA Loan or otherwise); provided that if any such date is

not a Business Day, payment shall be made on the next Business Day following such date. Any payment of the TIFIA Note shall be treated as a payment of the TIFIA Loan.

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

(c) Manner of Payment. Payments under this Agreement and the TIFIA Note shall be made by wire transfer on or before each Payment Date in immediately available funds in accordance with payment instructions provided by the TIFIA Lender pursuant to Section 36 (*Notices; Payment Instructions*), as modified in writing from time-to-time by the TIFIA Lender. The Borrower may make any such payment or portion thereof (or direct the Collateral Agent to make such payment) with funds then on deposit in the TIFIA Debt Service Sub-Account.

(d) Final Maturity Date. Notwithstanding anything herein to the contrary, the Outstanding TIFIA Loan Balance and any accrued interest thereon shall be due and payable in full on the Final Maturity Date (or on any earlier date on which the maturity of the TIFIA Loan shall be accelerated pursuant to the provisions of Section 19 (*Events of Default and Remedies*)).

(e) TIFIA Note; Adjustments to Loan Amortization Schedule. As evidence of the Borrower's obligation to repay the TIFIA Loan, the Borrower shall issue and deliver to the TIFIA Lender, on or prior to the Effective Date, the TIFIA Note substantially in the form of **Exhibit A**, having a maximum principal amount of \$13,080,000 (subject to increase or decrease as herein provided) and bearing interest at the rate set forth in Section 6 (*Interest Rate*).

Section 10. Prepayment.

(a) Optional Prepayments. The Borrower may prepay the TIFIA Loan in whole or in part (and, if in part, the amounts thereof to be prepaid shall be determined by the Borrower; provided, however, that such prepayments shall be in minimum principal amounts of \$100,000), at any time or from time-to-time, without penalty or premium. Each prepayment of the TIFIA Loan shall be made on such date and in such principal amount as shall be specified by the Borrower in a written notice delivered to the TIFIA Lender, which notice shall also specify the amount of unpaid interest accrued to the date of such prepayment on the amount of principal to be prepaid that the Borrower intends to pay concurrently with such prepayment, if any. In the case of any optional prepayment, such written notice shall be delivered to the TIFIA Lender not less than ten (10) days or more than thirty (30) days prior to the date set for prepayment, unless otherwise agreed by the TIFIA Lender. At any time between delivery of such written notice and the applicable optional prepayment, the Borrower may, without penalty or premium, rescind its announced optional prepayment by further written notice to the TIFIA Lender. Anything in this Section 10(a) (*Optional Prepayments*) to the contrary notwithstanding, the failure by the Borrower to make any optional prepayment shall not constitute a breach or default under this Agreement.

(b) General Prepayment Instructions. Upon the TIFIA Lender's receipt of confirmation that payment in full of the entire Outstanding TIFIA Loan Balance and any unpaid interest and fees with respect thereto has occurred as a result of an optional prepayment, the TIFIA Lender shall surrender the TIFIA Note to the Borrower or its representative at the principal office of the TIFIA Lender. If the Borrower prepays only part of the unpaid balance of principal of the TIFIA Loan, such partial prepayments of principal shall be applied to reduce future payments due on the TIFIA Loan in inverse order of maturity. Following any partial prepayment of the TIFIA Loan, the TIFIA Lender may provide to the Borrower a modified **Exhibit G** pursuant to Section 7 (*Outstanding TIFIA Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule*). Absent manifest error, the TIFIA Lender's determination of such matters as set forth on **Exhibit G** shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other TIFIA Loan Document. Any principal amount of the TIFIA Loan that is subject to a voluntary prepayment notice (as described in Section 10(a) above) but that is not so paid on the applicable prepayment date shall continue to bear interest until payment thereof at the rate provided for in Section 6 (*Interest Rate*).

Section 11. Compliance with Laws. The Borrower shall, and shall require its contractors and subcontractors at all tiers for the Project to, comply in all material respects with all applicable federal and state laws. The list of federal laws attached as **Exhibit E** is illustrative of the type of requirements generally applicable to transportation projects and is not intended to be exhaustive. The FTA Regional Office has oversight responsibility for the Project, including ensuring compliance in all material respects with all applicable provisions of federal law and with the terms of the FTA Master Agreements, to the extent applicable. The Borrower and TIFIA Lender mutually acknowledge that not every provision of the FTA Master Agreements will apply to the Project. The FTA Regional Office and the TIFIA Lender (a) will enforce only those federal laws, regulations, and guidance that apply to the Project, and (b) will not enforce federal laws, regulations, and guidance that do not apply to the Project. Application of any reference within the FTA Master Agreements to the common grant rule (2 C.F.R. Part 200) are limited to Subparts A, B, D, and F of the rule and 2 C.F.R. Parts 1200 and 1201, which modify the rule as applied by the USDOT. Any FTA Master Agreement terms included in the "Generally Applicable Provisions" found at Section 1 through Section 43 of the FTA Master Agreements may be applicable to the Project. "Special Provisions for the TIFIA Program and RRIF Program" found at Section 47 of the FTA Master Agreements are applicable to Project. The Borrower acknowledges and agrees that it has reviewed the FTA Master Agreements and shall comply as required thereby. The Borrower acknowledges and agrees that any costs incurred in connection with the Project prior to receipt of all necessary authorizations from the USDOT in respect of such costs (which may include approvals of prior-incurred costs) are incurred solely at the Borrower's risk and expense, will not constitute Eligible Project Costs, and no TIFIA Loan proceeds will be disbursed in respect thereof.

Section 12. Conditions Precedent.

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

(i) The Borrower shall have duly executed and delivered to the TIFIA Lender this Agreement and each other TIFIA Loan Document (other than the FTA Master Agreements), each in form and substance satisfactory to the TIFIA Lender. To the extent that any Person other than the Borrower or the TIFIA Lender is party to, or acknowledges and agrees to, any TIFIA Loan Document (other than the FTA Master Agreements), the Borrower shall have delivered to the TIFIA Lender the executed signature page of each such other signatory to each such TIFIA Loan Document.

(ii) (A) The Borrower shall have delivered to the TIFIA Lender certified, complete, and fully executed copies of each Other Financing Document, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date, and each such agreement shall be in full force and effect and in form and substance satisfactory to the TIFIA Lender, and all conditions contained in such documents to the closing of the transactions contemplated thereby shall have been fulfilled or effectively waived (provided that for purposes of this Section 12(a)(ii), any such waiver shall be subject to the TIFIA Lender's consent in its sole discretion); and (B) the Borrower shall have delivered to the TIFIA Lender certified, complete, and fully executed copies of the FTA Master Agreements, together with any amendments, waivers or modifications thereto, in each case that is in effect as of the Effective Date, and each such agreement shall be in full force and effect.

(iii) (A) Counsel to the Borrower shall have rendered to the TIFIA Lender legal opinions satisfactory to the TIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit H-1**), (B) bond counsel to the Borrower shall have rendered to the TIFIA Lender legal opinions satisfactory to the TIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit H-2**), (C) counsel to the Auditor/Controller/Treasurer/Tax Collector of the County of San Luis Obispo, as a Farebox Bank, shall have rendered to the TIFIA Lender legal opinions in form and substance satisfactory to the TIFIA Lender in its sole discretion, and (D) counsel to SLOCOG shall have rendered to the TIFIA Lender legal opinions in form and substance satisfactory to the TIFIA Lender in its sole discretion.

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

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

(vi) The Borrower shall have provided evidence to the TIFIA Lender's satisfaction, no more than thirty (30), but no less than fourteen (14), days prior to the Effective Date, of the assignment by at least one (1) Nationally Recognized Rating Agency of a public Investment Grade Rating to the Pari Passu Obligations then outstanding and to the TIFIA Loan and no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(vii) The Borrower shall have delivered to the TIFIA Lender a certificate from the Borrower's Authorized Representative in the form attached hereto as **Exhibit J** (A) as to the satisfaction of certain conditions precedent set forth in this Section 12(a) (*Conditions Precedent to Effectiveness*) as required by the TIFIA Lender, (B) designating the Borrower's Authorized Representative, and (C) confirming such person's position and incumbency.

(viii) The Borrower shall have demonstrated to the TIFIA Lender's satisfaction that as of the Effective Date the aggregate of all committed sources of funds shown in the Base Case Financial Model and in the Project Budget to pay Total Project Costs have been fully and completely committed and allocated to the Borrower by the providers thereof and that such funds shall be sufficient to pay all Total Project Costs necessary to achieve Substantial Completion.

(ix) The Borrower shall have provided to the TIFIA Lender certified, complete, and fully executed copies of each Construction-Related Contract that has been entered into as of the Effective Date, together with any amendments, waivers or modifications thereto and any related performance security instruments, in each case that has been entered into on or prior to the Effective Date and each such agreement shall be in full force and effect and in form and substance satisfactory to the TIFIA Lender.

(x) The Borrower shall have demonstrated to the TIFIA Lender's satisfaction that it has obtained all Governmental Approvals necessary to commence construction of the Project and that all such Governmental Approvals are final, non-appealable, and in full force and effect (and are not subject to any notice of violation, breach, or revocation).

(xi) The Borrower shall have delivered to the TIFIA Lender a certified Base Case Financial Model on the Effective Date, which Base Case Financial Model shall (A) demonstrate (x) that the Senior Debt Service Coverage Ratio (Farebox Revenues and LTF Funds) (for each Calculation Period through the Final Maturity Date) is at least equal to 2.00:1.00 and (y) the Senior Debt Service Coverage Ratio (Farebox Revenues) for each Calculation Period through the Final Maturity Date, (B) demonstrate that Revenues in each Calculation Period through the Final Maturity Date are projected to be sufficient to satisfy all of the Borrower's funding obligations pursuant to Section 5.03(b) of the CASA, and (C) otherwise be in form and substance acceptable to the TIFIA Lender.

(xii) The Borrower shall have provided evidence reasonably satisfactory to the TIFIA Lender that (A) SLOCOG has taken all necessary action to ensure that all

LTF Funds allocable to the Borrower are deposited directly into the Revenue Account, as required under the SLOCOG Irrevocable Instruction, and (B) each Farebox Bank has taken all necessary action to ensure that all Farebox Revenues it receives are wired automatically to the Revenue Account (subject to any No Transfer Order issued by the Collateral Agent), as required under the applicable Farebox Bank Irrevocable Instruction.

(xiii) The Borrower shall have (A) provided evidence satisfactory to the TIFIA Lender that the Borrower is authorized, pursuant to the Authorizing Legislation, to pledge, assign, and grant the Liens on the Collateral purported to be pledged, assigned, and granted pursuant to the TIFIA Loan Documents and the Other Financing Documents, without the need for notice to any Person, physical delivery, recordation, filing or further act, and (B) paid, or caused to be paid, all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any TIFIA Loan Document, any Other Financing Document or any instruments, certificates or financing statements in connection with the foregoing.

(xiv) The Borrower shall have (A) provided evidence satisfactory to the TIFIA Lender of compliance with NEPA, (B) complied with all applicable requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*) and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*) and shall have provided evidence satisfactory to the TIFIA Lender of such compliance upon request by the TIFIA Lender and (C) complied with the requirements of 2 C.F.R. §§ 180.300 and 180.330 and shall have provided evidence satisfactory to the TIFIA Lender of such compliance upon request by the TIFIA Lender.

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

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

(xvii) The Borrower shall have delivered to the TIFIA Lender (A) certificates of insurance or other acceptable documentation evidencing (1) that the Borrower has in effect as of the Effective Date insurance with respect to the Project and the Borrower, as applicable, that meets the requirements of Section 15(f) (*Insurance*) and (2) that each liability policy (other than workers' compensation insurance) reflects the TIFIA Lender as an additional insured and (B) at the TIFIA Lender's request, copies of such insurance policies.

(xviii) The Borrower shall have provided to the TIFIA Lender evidence that the Borrower is duly organized and validly existing under the laws of its jurisdiction of formation, with full power, authority and legal right to own its properties and carry on its business and governmental functions as now conducted, including the following documents, each certified by the Borrower's Authorized Representative: (A) a copy of its Organizational Documents and the Authorizing Legislation, each as in effect on the

Effective Date (and certified by the Secretary of State of the State or the state of its formation, to the extent applicable), which Organizational Documents and Authorizing Legislation shall each be in full force and effect and shall not have been amended since the date of the last amendment thereto shown on the certificate, (B) a copy of all resolutions authorizing the Borrower to execute and deliver, and to perform its respective obligations under, the TIFIA Loan Documents to which it is a party, and such resolutions have not been subsequently modified, rescinded or amended, are in full force and effect in the form adopted, and are the only resolutions adopted by the Borrower relating to the matters described therein, and (C) a copy of such further instruments and documents as are necessary, appropriate or advisable to effectuate the foregoing resolutions and to consummate and implement the transactions contemplated by such resolutions and the TIFIA Loan Documents.

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

(xx) The representations and warranties of the Borrower set forth in this Agreement (including Section 13 (*Representations and Warranties of Borrower*)) and in each other Related Document to which the Borrower is a party shall be true and correct, as of the Effective Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(xxi) The Borrower shall have provided the TIFIA Lender with evidence satisfactory to the TIFIA Lender that, as of the Effective Date (A) the maximum principal amount of the TIFIA Loan, together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs and (B) as required pursuant to § 603(b)(9) of the Act, the total federal assistance provided to the Project, including the maximum principal amount of the TIFIA Loan, does not exceed eighty percent (80%) of Eligible Project Costs.

(xxii) The Borrower shall have delivered to the TIFIA Lender a duly executed certificate from the Collateral Agent in the form attached hereto as **Exhibit I**.

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

(xxiv) The Borrower shall have delivered to the TIFIA Lender and the Collateral Agent time-stamped copies of UCC-1 financing statements covering the Project Accounts, satisfactory to the TIFIA Lender and the Collateral Agent in form and substance, that have been filed with the Secretary of State of the State of California.

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

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

(i) The Borrower shall have provided to the TIFIA Lender evidence satisfactory to the TIFIA Lender that prior thereto, or simultaneously therewith, a disbursement of Pari Passu Obligation proceeds has occurred such that as of such TIFIA Loan disbursement, the aggregate amount of all disbursements of the TIFIA Loan (including the requested disbursement) shall not exceed forty-nine percent (49%) of the total amount of reasonably anticipated Eligible Project Costs.

(ii) Solely with respect to the initial disbursement under the TIFIA Loan, the Borrower shall have delivered a payoff and release letter, in form and substance reasonably satisfactory to the TIFIA Lender and executed by the Bank Lender, providing that upon receipt of the proceeds of the initial disbursement under the TIFIA Loan in the amount requested by the Borrower in the applicable Requisition, Tranche B of the PWB Loan shall be terminated for all purposes of the PWB Loan Agreement and any Other Financing Documents and that the Borrower shall have no further right or ability to borrow any amounts in respect of Tranche B of the PWB Loan. The Borrower shall provide to the TIFIA Lender confirmation of the Bank Lender's receipt of the proceeds of the initial disbursement under the TIFIA Loan on the same date as such receipt.

(iii) With respect to any disbursement occurring sixty (60) days or more after the Effective Date, the Borrower shall have provided the Financial Plan, or the most recent update thereto, in each case in accordance with Section 21(a) (*Financial Plan*).

(iv) To the extent not previously delivered to the TIFIA Lender, the Borrower shall have delivered to the TIFIA Lender certified, complete and fully executed copies of any Other Financing Document, including any amendment, modification or supplement thereto, entered into after the Effective Date.

(v) To the extent not previously delivered to the TIFIA Lender, the Borrower shall have provided certified copies of all Construction-Related Contracts, including any amendment, modification or supplement thereto and related performance security instrument, entered into after the Effective Date.

(vi) The Borrower shall have demonstrated to the TIFIA Lender's satisfaction that all Governmental Approvals necessary as of the time of the applicable

disbursement for the development, construction, operation and maintenance of the Project have been issued and are in full force and effect.

(vii) Each of the insurance policies obtained and other insurance arrangements maintained by the Borrower in satisfaction of the conditions in Section 12(a)(xvii) (*Conditions Precedent to Effectiveness*) is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider.

(viii) At the time of, and immediately after giving effect to, any disbursement of TIFIA Loan proceeds then currently requested, (A) no Default or Event of Default hereunder, and no event of default (howsoever described or designated) under any other Related Document shall have occurred and be continuing, and (B) no event or condition that, with the giving of notice, the passage of time, or both, would constitute an event of default (howsoever described or designated) of the Borrower under any other Related Document, in each case, shall have occurred and be continuing.

(ix) The representations and warranties of the Borrower set forth in this Agreement (including Section 13 (*Representations and Warranties of Borrower*)) and in each other Related Document shall be true, correct, and complete as of each date on which any disbursement of the TIFIA Loan is made, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

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

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

Section 13. Representations and Warranties of Borrower. The Borrower hereby represents and warrants that, as of the Effective Date and, as to each of the representations and warranties below other than those contained in Section 13(b) (*Officer's Authorization*) and Section 13(l) (*Credit Ratings*), as of each date on which any disbursement of the TIFIA Loan is requested or made:

(a) **Organization; Power and Authority.** The Borrower is a joint powers authority duly organized, validly existing and in good standing under the laws of the State, has full legal right, power and authority to enter into the Related Documents then in existence to which the Borrower is a party, to execute and deliver the TIFIA Note, and to carry out and consummate all transactions contemplated hereby and thereby and has duly authorized the execution, delivery and performance of the Related Documents to which the Borrower is a party.

(b) **Officers' Authorization.** As of the Effective Date, the officers of the Borrower executing (or that previously executed) the Related Documents, and any certifications

or instruments related thereto, to which the Borrower is a party are (or were at the time of such execution) duly and properly in office and fully authorized to execute the same.

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

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

(e) Consents and Approvals. No consent or approval of any trustee, holder of any indebtedness of the Borrower or any other Person, and no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority is necessary in connection with (i) the execution and delivery by the Borrower of the Related Documents to which the Borrower is a party, except as have been obtained or made and as are in full force and effect, or (ii) (A) the consummation of any transaction contemplated by the Related Documents or (B) the fulfillment of or compliance by the Borrower with the terms and conditions of the Related Documents, except as have been obtained or made and as are in full force and effect or as are ministerial in nature and can reasonably be expected to be obtained or made in the ordinary course on commercially reasonable terms and conditions when needed.

(f) Litigation. As of the Effective Date, there is no action, suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation, in any case before or by any court or other Governmental Authority pending or, to the knowledge of the Borrower, threatened against or affecting the Project or the ability of the Borrower to execute, deliver and perform its obligations under the Related Documents. As of the Effective Date and as of each other date on which the representations and warranties herein are made or confirmed, there is no action, suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation before or by any court or other Governmental Authority pending, or to the knowledge of the Borrower, threatened against or affecting the Project, the Borrower or the assets, properties or operations of the Borrower, that in any case could reasonably be expected to result in a Material Adverse Effect. To the Borrower's knowledge, there are no actions of the type described above pending,

threatened against, or affecting any of the Construction-Related Contract Parties except for matters arising after the Effective Date that could not reasonably be expected to (i) result in a Material Adverse Effect or (ii) adversely affect the Borrower's ability to receive Revenues in amounts sufficient to meet the financial projections contained in the Base Case Financial Model (or any Revised Financial Model, to the extent any Revised Financial Model has been submitted to the TIFIA Lender). The Borrower is not in default (and no event has occurred and is continuing that, with the giving of notice or the passage of time or both, could constitute a default) with respect to any Governmental Approval, which default could reasonably be expected to result in a Material Adverse Effect.

(g) Security Interests. The CASA and the Authorizing Legislation establish, in favor of the Collateral Agent for the benefit of the TIFIA Lender, the valid and binding Liens on the Collateral that they purport to create, irrespective of whether any Person has notice of the pledge or grant of security interest, as applicable, and without the need for any physical delivery, recordation, filing, or further act. Such Liens are in full force and effect and are not subordinate or junior to any other Liens in respect of the Collateral and not *pari passu* with any obligations other than the Pari Passu Obligations. The Borrower has duly and lawfully taken all actions required under this Agreement, the other TIFIA Loan Documents, and applicable laws for the pledge or grant of security interest, as applicable, of the Collateral pursuant to and in accordance with the TIFIA Loan Documents. The Borrower is not in breach of any covenants set forth in Section 15(a) (*Securing Liens*) or in the TIFIA Loan Documents with respect to the matters described in such section or documents. As of the Effective Date and as of each other date this representation and warranty is made, (i) no filing, recordation or any other action is necessary to establish and perfect a legal, valid, binding, and enforceable Lien on the Collateral in favor of the Collateral Agent (for the benefit of the Secured Lenders) to the extent contemplated by the TIFIA Loan Documents, (ii) all applicable UCC-1 financing statements have been recorded or filed for record in such manner and in such places to notify third parties of the Collateral Agent's interest in the Project Accounts, and (iii) all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any TIFIA Loan Documents, including any instruments, certificates or financing statements in connection with the foregoing, have been paid. Neither the attachment, perfection, validity, enforceability or priority of the security interest in the Collateral described in clause (a) of the definition thereof granted pursuant to the TIFIA Loan Documents is governed by Article 9 of the UCC.

(h) No Debarment; Compliance with Flowdown Requirements. The Borrower has fully complied with its verification obligations under 2 C.F.R. § 180.320 and confirms, based on such verification, that, to its knowledge, neither the Borrower nor any of its principals (as defined in 2 C.F.R. § 180.995) is debarred, suspended or voluntarily excluded from participation in Federal Government contracts, procurement or non-procurement matters or delinquent on a Federal Government debt as more fully set forth in the certificate delivered pursuant to Section 12(a)(iv) (*Conditions Precedent to Effectiveness*). The Borrower has fully complied with its obligations under 2 C.F.R. §§ 180.300, 180.320 and 180.330 and is not aware of any non-compliance by any of its contractors or subcontractors with the applicable requirements of 2 C.F.R. Subpart C.

(i) Accuracy of Representations and Warranties. The representations, warranties and certifications of the Borrower set forth in this Agreement and the other Related

Documents are true, correct, and complete, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true, correct, and complete as of such earlier date).

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

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

(l) Credit Ratings. The Pari Passu Obligations then outstanding and the TIFIA Loan have received a public Investment Grade Rating from at least one (1) Nationally Recognized Rating Agency and written evidence of such ratings has been provided to the TIFIA Lender prior to the Effective Date, and no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(m) No Defaults. No Default or Event of Default, and no event of default (howsoever described or designated) of the Borrower under any Related Document has occurred and is continuing.

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

(o) Construction-Related Contracts. Each Construction-Related Contract in effect as of any date on which this representation and warranty is made is in full force and effect and all conditions precedent to the obligations of the respective parties under each such Construction-Related Contract have been satisfied. The Borrower has delivered to the TIFIA Lender a fully executed, complete, and correct copy of each such Construction-Related Contract (including all exhibits, schedules and other attachments) that is in effect, including any amendments or modifications thereto and any related credit support instruments or side letters. No event has occurred that gives the Borrower or, to the Borrower's knowledge, any Construction-Related Contract Party, the right to terminate such Construction-Related Contract. The Borrower is not in breach of, or in default under, any Construction-Related Contract, and, to the knowledge of the Borrower, no Construction-Related Contract Party is in breach of, or in default under, any material term of such Construction-Related Contract.

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

(q) OFAC; Anti-Corruption Laws.

(i) None of the Borrower nor, to the knowledge of the Borrower, any Construction-Related Contract Party is a Sanctioned Person.

(ii) None of the Borrower nor, to the knowledge of the Borrower, any Construction-Related Contract Party is in violation of or, since the date that is five (5) years prior to the Effective Date, has violated: (A) any applicable Anti-Money Laundering Laws; (B) any applicable Sanctions; (C) any applicable Anti-Corruption Laws; or (D) any applicable anti-drug trafficking or anti-terrorism laws, civil or criminal.

(iii) There are no pending or, to the knowledge of the Borrower, threatened claims or investigations by any Governmental Authority against, or any internal investigations conducted by, the Borrower or any Construction-Related Contract Party, with respect to any possible or alleged violations of any Sanctions, Anti-Money Laundering Laws, Anti-Corruption Laws, or any anti-drug trafficking or anti-terrorism laws.

(iv) No use of proceeds of the TIFIA Loan or other transaction contemplated by this Agreement or any other Related Document will violate any applicable Sanctions, Anti-Money Laundering Laws, or Anti-Corruption Laws, or any applicable anti-drug trafficking or anti-terrorism laws.

(r) Compliance with Law. The Borrower is in compliance in all material respects with, and has conducted (or caused to be conducted) its business and government functions and the business and operations of the Project in compliance in all material respects with, the FTA Master Agreements and all applicable laws (other than Environmental Laws, which are addressed in Section 13(s) (*Environmental Matters*)), including those set forth on **Exhibit E**, to the extent applicable. To the Borrower's knowledge, each Construction-Related Contract Party is, and has caused its respective contractors and subcontractors to be, in compliance in all material respects with all applicable laws, including those set forth on **Exhibit E**, to the extent applicable. No notices of violation of any applicable law have been issued, entered or received by (i) the Borrower or (ii) to the Borrower's knowledge, solely in respect of the Project, any Construction-Related Contract Party other than, in each case, notices of violations that are immaterial.

(s) Environmental Matters. Each of the Borrower and, to the Borrower's knowledge, each Construction-Related Contract Party is in compliance with all laws applicable

to the Project relating to (i) air emissions, (ii) discharges to surface water or ground water, (iii) noise emissions, (iv) solid or liquid waste disposal, (v) the use, generation, storage, transportation or disposal of toxic or hazardous substances or wastes, (vi) biological resources (such as threatened and endangered species), and (vii) other environmental, health or safety matters, including all laws applicable to the Project referenced in the notice “Federal Environmental Statutes, Regulations, and Executive Orders Applicable to the Development and Review of Transportation Infrastructure Projects,” 79 Fed. Reg. 22756 (April 23, 2014) (or any successor Federal Register notice of similar import), which document is available at <http://www.transportation.gov/policy/transportation-policy/environment/laws> (“**Environmental Laws**”). All Governmental Approvals for the Project relating to Environmental Laws have been, or, when required, will be, obtained and are (or, as applicable, will be) in full force and effect. The Borrower has not received any written communication or notice, whether from a Governmental Authority, employee, citizens group, or any other Person, that alleges that the Borrower is not in full compliance with all Environmental Laws and Governmental Approvals relating thereto in connection with the Project and, to the Borrower’s knowledge, there are no circumstances that may prevent or interfere with full compliance in the future by the Borrower with any such Environmental Law or Governmental Approval. The Borrower has provided to the TIFIA Lender all material assessments, reports, results of investigations or audits, and other material information in the possession of or reasonably available to the Borrower regarding the Borrower’s or the Project’s compliance with (A) Environmental Laws, and (B) Governmental Approvals relating to Environmental Laws that are required for the Project.

(t) Insurance. The Borrower is in compliance with the requirements of Section 15(f) (*Insurance*) and all insurance obligations required under each Related Document as of the date on which this representation and warranty is made.

(u) No Liens. Except for the Liens granted pursuant to the CASA, the Borrower has not created, and is not under any obligation to create, and has not entered into any transaction or agreement that would result in the imposition of, any Lien on the Collateral.

(v) Intellectual Property. The Borrower owns, or has adequate licenses or other valid rights to use, all patents, trademarks, service marks, trade names, copyrights, franchises, formulas, licenses and other rights with respect thereto and has obtained assignment of all licenses and other rights of whatsoever nature, in each case necessary for the Project and the operation of its business. To the Borrower’s knowledge, there exists no conflict with the rights or title of any third party with respect to the intellectual property described in the preceding sentence. Excluding the use of commercially available “off-the-shelf” software, to the Borrower’s knowledge, no product, process, method, substance, part or other material produced or employed or presently contemplated to be produced by or employed by the Project infringes or will infringe any patent, trademark, service mark, trade name, copyright, franchise, formula, license or other intellectual property right of any third party.

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

(x) Financial Statements. Each income statement, balance sheet, and statement of operations and cash flows (collectively, “**Financial Statements**”) delivered to the TIFIA Lender pursuant to Section 21(b) (*Financial Statements*) has been prepared in accordance with GAAP and presents fairly, in all material respects, the financial condition of the Borrower as of the respective dates of the balance sheets included therein and the results of operations of the Borrower for the respective periods covered by the statements of income included therein. Except as reflected in such Financial Statements, there are no liabilities or obligations of the Borrower of any nature whatsoever for the period to which such Financial Statements relate that are required to be disclosed in accordance with GAAP.

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

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

(aa) Sufficient Funds. The aggregate of (i) the undrawn portion of the TIFIA Loan, (ii) all funds that are undrawn but fully and completely committed under the Other Financing Documents, and (iii) all funds available under any other unused funding that are committed and available, will be sufficient to pay all Total Project Costs necessary to achieve Substantial Completion.

(bb) Sovereign Immunity. Pursuant to California Government Code Section 814 et seq., the Borrower can sue and be sued in respect of its contractual obligations, and judgments against the Borrower can be legally enforced. The defense of sovereign immunity is not available to the Borrower in any proceedings in any court of competent jurisdiction relating to the enforcement of (or collection on) the obligations of the Borrower under any of the Related Documents to which it is a party or the transactions contemplated hereby or thereby.

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

(dd) Irrevocable Instructions. The SLOCOG Irrevocable Instruction and each Farebox Bank Irrevocable Instruction is in full force and effect. To the knowledge of the Borrower, SLOCOG is (and has been since the most recent date as of which this representation and warranty was made) in full compliance with the SLOCOG Irrevocable Instruction and each Farebox Bank is (and has been since the most recent date as of which this representation and warranty was made) in full compliance with its respective Farebox Bank Irrevocable Instruction.

Section 14. Representations and Warranties of TIFIA Lender. The TIFIA Lender represents and warrants that:

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

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

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

Section 15. Affirmative Covenants. The Borrower covenants and agrees as follows until the date the TIFIA Note and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in cash and the TIFIA Lender no longer has any commitment to make disbursements to the Borrower, unless the TIFIA Lender waives compliance in writing:

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

(b) Copies of Documents.

(i) The Borrower shall provide to the TIFIA Lender a copy of any draft Other Financing Documents (or other comparable transaction or offering documents) in connection with the incurrence of any Permitted Debt or indebtedness subject to approval by the TIFIA Lender pursuant to Section 16(a) (*Indebtedness*), in each case at least thirty (30) days prior to the incurrence of such indebtedness. The Borrower shall provide to the TIFIA Lender a fully executed or final version of each such Other Financing Document (or other comparable transaction documentation) within ten (10) days following execution or completion thereof.

(ii) The Borrower shall provide to the TIFIA Lender, promptly after the sending or receipt thereof, copies of (A) final ratings presentations sent to, and any notices, reports or other written materials (other than those that are ministerial in nature) received from, any Nationally Recognized Rating Agency that has provided, or is being requested to provide, a rating with respect to the Project or any indebtedness of the

Borrower that is or will be secured by or paid from the Revenues or the Collateral, (B) all notices and other written communications, other than those that are non-substantive or ministerial in nature, received by it from the Collateral Agent or any Secured Lender, and (C) all reports, notices and other written materials, other than those that are non-substantive or ministerial in nature, required to be sent to the Collateral Agent or any Secured Lender under the TIFIA Loan Documents or the Other Financing Documents; unless, in each case, the TIFIA Lender notifies the Borrower that any such reports, notices and/or other written materials no longer need to be provided.

(iii) Except as otherwise agreed by the TIFIA Lender in writing, the Borrower will provide to the TIFIA Lender (x) copies of any proposed amendments, modifications, replacements of, or supplements to any Related Document or Construction-Related Contract (including proposed change orders to the Construction-Related Contract described in clause (c) of the definition thereof (or any replacement of such contract) that increase the contract price for such Construction-Related Contract by an amount that is greater than ten percent (10%) of the original contract price for such Construction-Related Contract) (other than proposed amendments, modifications, replacements or supplements that are ministerial in nature and do not change any substantive provision of such Related Document or Construction-Related Contract) at least thirty (30) days prior to the effective date thereof, and (y) complete, correct and fully executed copies of any amendment, modification or supplement to any Related Document or Construction-Related Contract (including change orders to the Construction-Related Contract described in clause (c) of the definition thereof (or any replacement of such contract) that increase the contract price for such Construction-Related Contract by an amount that is greater than ten percent (10%) of the original contract price for such Construction-Related Contract) within five (5) Business Days after execution thereof.

(iv) If the Borrower enters into a Construction-Related Contract after the Effective Date, the Borrower shall provide to the TIFIA Lender an executed version of such Construction-Related Contract, together with any related performance security instruments, contracts, side letters or other understandings, promptly following the full execution thereof.

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

(d) Prosecution of Work; Verification Requirements.

(i) The Borrower shall diligently prosecute the work relating to the Project and complete the Project in accordance with the Construction Schedule, and in accordance with the highest standards of the Borrower's industry.

(ii) The Borrower shall comply with the requirements set forth in 2 C.F.R. §§ 180.300, 180.320 and 180.330.

(e) Operations and Maintenance. The Borrower shall (i) operate and maintain the Project in a reasonable and prudent manner and (B) substantially in accordance with the regulations, standards and guidelines of the applicable USDOT modal agency, and (ii) maintain the Project in good repair, working order and condition and in accordance with the requirements of all other applicable laws and each applicable Related Document. The Borrower shall at all times do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the Governmental Approvals and any other rights, licenses, franchises, and authorizations material to the conduct of its business.

(f) Insurance.

(i) The Borrower shall at all times maintain insurance with responsible insurers, in amounts and with coverages as are customarily maintained in the United States of America by entities similar to the Borrower, or as is required under any Construction-Related Contract or applicable law (e.g., casualty, commercial general liability, excess umbrella liability, automobile liability and workers' compensation). During the construction of the Project, the Borrower shall maintain or cause to be maintained appropriate casualty and liability insurance covering the Borrower and the Project, including a builders all-risk policy and pollution and other environmental liability and remediation related coverage. The Borrower shall cause each Construction-Related Contract Party to obtain and maintain casualty and liability insurance in accordance with the requirements of the applicable Construction-Related Contract.

(ii) The Borrower shall cause all liability insurance policies that it maintains, other than workers' compensation insurance, to reflect the TIFIA Lender as an additional insured.

(iii) If an Event of Loss shall occur with respect to the Project or any part thereof, the Borrower shall (A) diligently pursue all of its rights to compensation against all relevant insurers, reinsurers and Governmental Authorities, as applicable, in respect of such event and (B) pay or apply all loss proceeds or amounts obtained by the Borrower stemming from such event to rebuild, repair or replace the Project, as applicable, within a reasonable time period, unless such repair, rebuilding or replacement is reasonably determined to be financially unfeasible or the Project, as repaired, rebuilt or replaced, shall be determined to be no longer economically viable, in each case based on the determination of the Borrower and, if a Consulting Engineer has been retained as of such time, based on a written report prepared by a Consulting Engineer; provided, however, that loss proceeds must in any event be applied in accordance with all federal disposition rules, including those set forth in the FTA Master Agreements and 2 C.F.R. Part 200.

(g) Notices.

(i) The Borrower shall, within five (5) Business Days after the Borrower learns of the occurrence, give the TIFIA Lender notice of any of the following events or receipt of any of the following notices, as applicable, setting forth details of such event:

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

(B) Ratings Changes: any change in the rating assigned to the TIFIA Loan, any Pari Passu Obligations or any Subordinated Obligations by any Nationally Recognized Rating Agency that has provided a rating on such indebtedness, the Borrower, or the Collateral;

(C) Defaults; Events of Default: the occurrence of any Default or Event of Default;

(D) Construction-Related Contract Defaults: any material breach or default or event of default on the part of the Borrower or any other party under any Construction-Related Contract;

(E) Litigation: (1) the filing of any litigation, suit or action, or the commencement of any proceeding, against the Borrower before any arbitrator, Governmental Authority, alternative dispute resolution body, or other neutral third-party, or the receipt by the Borrower in writing of any threat of litigation, suit, action, or proceeding, or of any written claim against the Borrower that, in each case, could reasonably be expected to have a Material Adverse Effect, and any material changes in the status of such litigation, suit, action or claim, and (2) any judgments against the Borrower with award amounts in excess of \$2,000,000 (inflated annually by CPI) that are payable from Revenues or the Collateral and are not otherwise fully covered by insurance (for which the insurer has acknowledged and not disputed coverage), either individually or in the aggregate;

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

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

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

(I) Project Changes: any (1) change to the Total Project Costs forecasts in excess of five percent (5%) of total forecasted Eligible Project Costs or (2) any proposed change to the construction schedule for the Project in excess of five percent (5%) of the total number of days reflected in the Construction Schedule attached as **Schedule II**;

(J) 2 C.F.R. Notices: (1) that any of the information set forth in the certificate provided pursuant to Section 12(a)(iv) (*Conditions Precedent to Effectiveness*) was incorrect at the time the certificate was delivered or there has been a change in status of the Borrower or any of its principals with respect to the criteria set forth in 2 C.F.R. § 180.335; (2) any other notification required pursuant to 2 C.F.R. § 180.350; and (3) any violation of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the TIFIA Loan as described in 2 C.F.R. § 200.113, and the Borrower shall require its subcontractors to provide it notice of any such violation;

(K) SEC Rule 15c2-12: the filing of (together with a copy of) of any notice of a material event pursuant to clause (b)(5)(i)(C) of Rule 15c2-12 of the U.S. Securities and Exchange Commission (or any similar rule);

(L) Farebox Recovery Ratio: any reduction in the Farebox Recovery Ratio that causes that the Farebox Recovery Ratio to fall below the then-applicable minimum required by the TDA;

(M) Farebox Revenue Policy: any material change to the Borrower's Farebox Revenue policies that could reduce the amount of Farebox Revenues received by or on behalf of the Borrower;

(N) LTF Funds and STA Funds Availability:

- a. any suspension, impairment or discontinuance of the availability of LTF Funds to the Borrower for any reason; and
- b. any material change to the TDA that affects the allocation process or the amount available for allocation for LTF Funds or STA Funds; and

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

(ii) The Borrower shall provide the TIFIA Lender with any further information reasonably requested by the TIFIA Lender from time to time concerning the matters described in Section 15(g)(i) (*Notice*).

(h) Remedial Action. Within thirty (30) calendar days after the Borrower learns of the occurrence of an event specified in Section 15(g)(i) (*Notice*) (other than in Section 15(g)(i)(A) (*Substantial Completion*), or Section 15(g)(i)(B) (*Ratings Changes*) (in the case of a ratings upgrade)), the Borrower's Authorized Representative shall provide a statement to the TIFIA Lender setting forth the actions the Borrower proposes to take with respect thereto.

(i) Maintain Legal Structure. The Borrower shall maintain its existence as a joint powers authority under the laws of the State.

(j) Annual Rating. The Borrower shall, commencing in 2021, no later than the last Business Day of June of each year during the term of the TIFIA Loan, at no cost to the TIFIA Lender, provide to the TIFIA Lender a public rating on the TIFIA Loan by a Nationally Recognized Rating Agency, together with the rating report or letter delivered by such Nationally Recognized Rating Agency in connection with each such rating, in each case prepared no earlier than June 1 of such year.

(k) Reserve Accounts; Permitted Investments.

(i) The Borrower shall fund the TIFIA Debt Service Reserve Sub-Account in an amount equal to the TIFIA Debt Service Reserve Required Balance by no later than October 1, 2020.

(ii) The Borrower shall maintain the TIFIA Debt Service Reserve Sub-Account in an amount equal to the TIFIA Debt Service Reserve Required Balance and any Pari Passu Debt Service Reserve Sub-Account in an amount equal to the applicable Pari Passu Debt Service Reserve Required Balance for such sub-account, in each case in accordance with the provisions of this Agreement and the applicable TIFIA Loan Documents and Other Financing Documents. Amounts in the TIFIA Debt Service Reserve Sub-Account shall be made available to ensure the timely payment of TIFIA Debt Service on the TIFIA Loan and amounts in any Pari Passu Debt Service Reserve Sub-Account shall be made available to ensure the timely payment of Debt Service on the applicable Pari Passu Obligations; provided that the Borrower shall be required to utilize any legally available Revenues to make timely payment of TIFIA Debt Service prior to utilizing funds in the TIFIA Debt Service Reserve Sub-Account for such purpose.

(iii) Amounts on deposit in the Project Accounts shall be held uninvested or invested in Permitted Investments. Permitted Investments must mature or be redeemable at the election of the holder as follows: (A) with respect to Permitted Investments maintained in the TIFIA Debt Service Reserve Sub-Account, not later than the next Semi-Annual Payment Date, (B) with respect to Permitted Investments maintained in the TIFIA Debt Service Sub-Account or in any debt service account in respect of other Obligations corresponding to amounts needed for the payment of interest, not later than the next Semi-Annual Payment Date, (C) with respect to Permitted

Investments maintained in the TIFIA Debt Service Sub-Account or in any debt service account for other Obligations corresponding to amounts needed for the repayment of principal, not later than the next Annual Payment Date for repayment of principal in respect of such debt, and (D) with respect to any other Project Account, on or prior to the date on which the funds invested in such Permitted Investments are reasonably expected to be needed for any payment. The Borrower shall, promptly but in any event within five (5) days, liquidate any investment that was, but no longer is, a Permitted Investment and shall invest the proceeds of such investment solely into one or more Permitted Investments.

(iv) The Borrower may replace all or a portion of the required balance of the TIFIA Debt Service Reserve Sub-Account, in accordance with the terms of the applicable TIFIA Loan Documents, with a letter of credit or surety instrument issued by a Qualified Issuer. If at any time an issuer of such letter of credit or surety instrument securing the TIFIA Debt Service Reserve Sub-Account ceases to be a Qualified Issuer, the Borrower shall cause such letter of credit or surety instrument to be replaced by a new letter of credit or surety instrument within thirty (30) calendar days of the date on which the current issuer ceased to be a Qualified Issuer, or the Collateral Agent shall be permitted to immediately draw the full amount of such letter of credit or surety instrument and deposit the proceeds of such drawing into the TIFIA Debt Service Reserve Sub-Account. Any new letter of credit or surety instrument shall have the same terms and conditions (including expiration date and face amount) as the letter of credit or surety instrument being replaced, or such other terms and conditions as may be satisfactory to the TIFIA Lender. If any letter of credit or surety instrument securing the TIFIA Debt Service Reserve Sub-Account is scheduled to expire prior to the Final Maturity Date, the Borrower shall replace such letter of credit or surety instrument with a new letter of credit or surety instrument issued by a Qualified Issuer at least ten (10) Business Days prior to the stated expiry date of the existing letter of credit or surety instrument and such new letter of credit or surety instrument shall be in an amount equal to at least the amount of expiring letter of credit or surety instrument. If the Borrower fails to provide such new letter of credit or surety instrument by the date required above, the Collateral Agent shall (and the TIFIA Lender shall have the right to direct the Collateral Agent to) immediately draw the full undrawn amount of the existing letter of credit or surety instrument and deposit the proceeds of such drawing into the TIFIA Debt Service Reserve Sub-Account. If any letter of credit or surety reimbursement or indemnification obligations will be payable from the Revenues, the face amount of any such letter of credit or surety instrument (and, without duplication, any actual reimbursement or indemnification obligation following a draw on or disbursement under any such letter of credit or surety instrument) shall be treated as outstanding indebtedness of the Borrower for all purposes hereunder and the amount of any reimbursement or indemnity payment in any Calculation Period will be added to the calculation of Debt Service for such Calculation Period.

(l) Collection of Revenues.

(i) The Borrower shall at all times levy, charge and collect Farebox Revenues from its customers in accordance with its internal policies. The Borrower shall

take all reasonable actions necessary to (A) ensure that it remains eligible under all applicable laws and SLOCOG guidelines to receive LTF Funds and STA Funds, (B) maintain compliance with the then-applicable Farebox Recovery Ratio requirement and ensure that LTF Funds and STA Funds allocable to the Borrower are not subject to reduction due to any act or omission of the Borrower and (C) apply for or otherwise request LTF Funds and STA Funds from SLOCOG, in each case in accordance with all applicable SLOCOG guidelines.

(ii) The Borrower shall budget and apply for LTF Funds in each Borrower Fiscal Year in amounts at least sufficient to pay 2.0x (A) all TIFIA Debt Service due and payable during such Borrower Fiscal Year *plus* (B) all debt service due and payable under the Other Financing Documents during such Borrower Fiscal Year. In the event that SLOCOG allocates to the Borrower an amount of LTF Funds that is lower than the amount requested by the Borrower, the Borrower shall deliver to the TIFIA Lender written notice of such event within five (5) Business Days after the date of such allocation, which notice shall include an explanation for the reasons for such shortfall in allocation of LTF Funds to the Borrower.

(iii) Pursuant to the SLOCOG Irrevocable Instruction, the Borrower shall instruct SLOCOG to transfer all LTF Funds allocated to the Borrower to the Collateral Agent to be deposited in the Revenue Account immediately upon allocation from SLOCOG but no less frequently than on a quarterly basis. Pursuant to the Farebox Bank Irrevocable Instructions, the Borrower shall instruct each Farebox Bank to transfer all Farebox Revenues received by or on behalf of the Borrower to the Collateral Agent to be deposited in the Revenue Account on the twenty-third (23rd) day of each month (or, if such date is not a Business Day, the immediately preceding Business Day), unless otherwise directed by the Collateral Agent under the CASA. The Borrower shall ensure that the SLOCOG Irrevocable Instruction and each Farebox Bank Irrevocable Instruction remain in full force and effect at all times while the TIFIA Loan remains outstanding. The Borrower shall use all commercially reasonable efforts to ensure that SLOCOG and each Farebox Bank maintain compliance with, respectively, the SLOCOG Irrevocable Instruction or the applicable Farebox Bank Irrevocable Instruction at all times while the TIFIA Loan remains outstanding. Except for LTF Funds that have been released to the Borrower pursuant to the CASA and Farebox Revenues that are not required to be deposited in the Revenue Account pursuant to Section 5.03(g) of the CASA, the Borrower shall receive and hold in trust for (and remit immediately to) the Collateral Agent any LTF Funds allocated to the Borrower and any Farebox Revenues, in each case paid to the Borrower and not directly to the Revenue Account. During any time when any Farebox Bank is required to transfer Farebox Revenues to the Revenue Account in accordance with its Farebox Bank Irrevocable Instruction and Section 5.03(a) of the CASA, the Borrower shall not transfer, or permit the withdrawal or transfer of, Farebox Revenues from any Farebox Bank for any purpose other than the transfer to the Revenue Account.

(iv) On each Transfer Date (as defined in the CASA) and, with respect to funds deposited to the Revenue Account in accordance with Section 5.03(a)(iii) of the CASA, on any date on which such funds are deposited into the Revenue Account, the

Borrower shall cause the Collateral Agent to make the deposits to the TIFIA Debt Service Sub-Account, the PWB Debt Service Sub-Account, any other applicable sub-account of the Pari Passu Debt Service Account, the TIFIA Debt Service Reserve Sub-Account, the PWB Debt Service Reserve Sub-Account and any other applicable Pari Passu Debt Service Reserve Sub-Account, as applicable, pursuant to clauses *First* through *Second* in Section 5.03(b) of the CASA in the amounts required to meet the No Transfer Conditions, to the full extent that funds are available in the Revenue Account to make such deposits.

(v) If LTF Funds and Farebox Revenues on deposit in the Pari Passu Debt Service Account (or the applicable sub-accounts thereunder), the TIFIA Debt Service Reserve Sub-Account, the PWB Debt Service Reserve Sub-Account, or any other applicable sub-account of the Pari Passu Debt Service Reserve Account are at any time not sufficient to satisfy each of the No Transfer Conditions, the Borrower shall deposit (or cause to be deposited) Other Revenues to the Revenue Account and shall instruct the Collateral Agent to deposit such funds into the applicable accounts as needed to meet the Borrower's funding obligations pursuant to clauses *First* through *Second* in Section 5.03(b) of the CASA by the applicable Payment Date or other applicable date set forth in Section 5.03(b) of the CASA.

(vi) In the event that the availability of LTF Funds to the Borrower are suspended, impaired or discontinued for any reason, the Borrower shall deliver to the TIFIA Lender written notice of such event and an explanation for the reasons for such suspension, impairment or discontinuance. Upon receipt of such notice by the TIFIA Lender, the Borrower and the TIFIA Lender shall cooperate in good faith to amend the TIFIA Loan Documents as necessary to account for an appropriate replacement to LTF Funds, and to the extent necessary, the Borrower shall use its best efforts to cause the Collateral Agent and each other Secured Party to execute any such amendment to the TIFIA Loan Documents to which the Collateral Agent or such other Secured Party, as applicable, is required to be a party or to acknowledge or agree thereto.

(m) PWB Loan Proceeds. The Borrower shall use the proceeds of the PWB Loan solely for the payment or reimbursement of Eligible Project Costs.

(n) Compliance with Law. The Borrower shall comply in all material respects with all applicable material federal and State laws, including (i) all items set forth in **Exhibit E**, to the extent applicable and (ii) the terms and conditions of the FTA Master Agreements, which have no expiration date and which continue to apply until modified or superseded as outlined therein.

(o) Material Obligations; Liens. The Borrower shall pay its material obligations promptly and in accordance with their terms and pay and discharge promptly all taxes, assessments and governmental charges or levies imposed upon it or upon the Revenues or the Borrower's other income or profits or in respect of its property, before the same shall become delinquent or in default, as well as all lawful and material claims for labor, materials and supplies or other claims which, if unpaid, might give rise to a Lien upon such properties or any part thereof or on the Revenues or the Collateral; provided, however, that such payment and

discharge shall not be required with respect to any such tax, assessment, charge, levy, claim or Lien so long as the validity or amount thereof shall be contested by the Borrower in good faith by appropriate proceedings and so long as the Borrower shall have set aside adequate reserves with respect thereto in accordance with and to the extent required by GAAP, applied on a consistent basis.

(p) [Reserved].

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

(r) Immunity. Consistent with California Government Code Section 814 et seq., the Borrower agrees that it will not assert any immunity (and hereby waives any such immunity) it may have as a governmental entity from lawsuits, other actions and claims, and any judgments with respect to the enforcement of any of the obligations of the Borrower under this Agreement or any other TIFIA Loan Document.

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

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

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

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

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

Section 16. Negative Covenants. The Borrower covenants and agrees as follows until the date the TIFIA Note and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in cash, unless the TIFIA Lender waives compliance in writing:

(a) Indebtedness.

(i) Except for Permitted Debt, the Borrower shall not, without the prior written consent of the TIFIA Lender, issue or incur indebtedness of any kind (including financing leases (other than leases described in clause (d) of the definition of Permitted Debt), certificates of participation, and Liquidity Facilities) that is secured (in whole or in part) by the Collateral or that is otherwise payable (in whole or in part) from Revenues; provided that the Borrower shall not incur any indebtedness of any kind payable from, secured or supported by the Collateral or the Revenues, including Permitted Debt, without the prior written consent of the TIFIA Lender, following the occurrence, and during the continuation, of an Event of Default. With respect to a Liquidity Facility, the amount of indebtedness assigned to such Liquidity Facility shall be the maximum amount that can be drawn or claimed against such Liquidity Facility.

(ii) The Borrower shall not issue indebtedness for borrowed money that is senior to the TIFIA Loan in right of payment from any Revenues.

(iii) Prior to the incurrence of Permitted Debt described in clause (c) of the definition thereof or any Subordinated Obligations consented to by the TIFIA Lender in accordance with clause (iv) below, the Borrower shall deliver to the TIFIA Lender (A) a Revised Financial Model that takes into account the proposed indebtedness, which Revised Financial Model shall reflect and be based on the actual amortization schedules for such proposed indebtedness and all Existing Indebtedness in accordance with their respective terms and shall otherwise be in form and substance satisfactory to the TIFIA Lender, and (B) a certificate signed by the Borrower's Authorized Representative, demonstrating to the TIFIA Lender's satisfaction that such proposed indebtedness (1) is authorized pursuant to this Section 16(a) (*Indebtedness*) and (2) satisfies the requirements, as applicable, set forth in the definitions of "Permitted Debt," "Additional Obligations," and "Subordinated Obligations."

(iv) The Borrower shall not issue any Subordinated Obligations without the prior written consent of the TIFIA Lender; provided, that in no event shall the TIFIA Lender approve any Subordinated Obligations that (a) are subject to acceleration by the holder thereof or (b) provide rights for the holder thereof to participate in the instruction or direction of the Collateral Agent under the CASA.

(v) To the extent any Permitted Debt consists of Put Obligations, the Borrower must maintain a Liquidity Facility that will pay any amounts payable by the Borrower in respect of such Put Obligations.

(vi) The Borrower shall not issue or incur Additional Obligations unless the LTF Funds allocated to the Borrower and deposited into the Revenue Account

and Farebox Revenues received by or on behalf of the Borrower, in the aggregate, during any twelve (12) consecutive months during the eighteen (18) months prior to the date of the issuance of such Additional Obligations were at least equal to 2.0x MADS.

(vii) The Borrower shall deliver to the TIFIA Lender a copy of the fully executed Accession Agreement (as defined in the CASA) delivered pursuant to Sections 9.01 and 9.02 of the CASA in connection with the issuance of any Additional Obligations, promptly upon the execution thereof.

(viii) The Borrower shall not issue or incur any (A) Capital Appreciation Obligations, (B) Deferred Interest Obligations, or (C) Obligations that bear interest at a variable interest rate, in each case, without the prior written consent of the TIFIA Lender.

(b) No Lien Extinguishment; Adverse Amendments. The Borrower shall not, and shall not permit any Person to, without the prior written consent of the TIFIA Lender, either (i) extinguish, impair, or transfer the Liens on the Collateral granted pursuant to the CASA, (ii) terminate, assign, amend, modify, replace, or supplement any Related Document (other than the SLOCOG Irrevocable Instruction and any Farebox Bank Irrevocable Instruction) in a manner that (A) could adversely affect the TIFIA Lender (in the TIFIA Lender's determination) in connection with the TIFIA Loan or (B) is inconsistent with this Agreement or the CASA, (iii) waive or permit a waiver of any provision of any Related Document (other than the SLOCOG Irrevocable Instruction and any Farebox Bank Irrevocable Instruction) in a manner that (A) could adversely affect the TIFIA Lender (in the TIFIA Lender's determination) in connection with the TIFIA Loan or (B) is inconsistent with this Agreement or the CASA, or (iv) terminate, assign, amend, modify, replace, supplement, waive or permit a waiver of any provision of the SLOCOG Irrevocable Instruction or any Farebox Bank Irrevocable Instruction.

(c) No Prohibited Liens.

(i) Except for the Liens granted pursuant to the CASA in respect of Permitted Debt, the Borrower shall not create, incur, assume or permit to exist any Lien on the Collateral or the Borrower's rights therein. The Borrower shall not collaterally assign or otherwise pledge its rights to receive LTF Funds or STA Funds without the TIFIA Lender's prior written consent; provided that the TIFIA Lender shall not consent to any such collateral assignment or pledge unless as a condition to such consent the Borrower collaterally assigns or otherwise legally pledges its right to receive LTF Funds or STA Funds, as applicable, to the TIFIA Lender.

(ii) Except for the Liens on the Collateral granted pursuant to the CASA, the Borrower shall not create, incur, assume or permit to exist any Lien on any right or interest of the Borrower in or to any asset or property to secure any Pari Passu Obligations (other than a debt service reserve account that exclusively secures such Pasi Passu Obligations), unless it has assigned and granted, or concurrently assigns and grants, a Lien on such assets to secure the TIFIA Loan on a *pari passu* basis.

(d) Organizational Documents; Fiscal Year. The Borrower shall not at any time (i) amend or modify its Organizational Documents (other than any amendment or

modification that is of a ministerial nature and that is not adverse to the interests of the TIFIA Lender under the TIFIA Loan Documents or in the Collateral) without the prior written consent of the TIFIA Lender, or (ii) adopt any fiscal year other than the Borrower Fiscal Year, except with thirty (30) days' prior written notice to the TIFIA Lender.

(e) No Payment with Federal Funds. The Borrower shall not pay any portion of TIFIA Debt Service nor any other amount to the TIFIA Lender or the Federal Government pursuant to the TIFIA Loan Documents with funds received directly or indirectly from the Federal Government; provided, however, that the Borrower may prepay the TIFIA Loan in whole or in part with the proceeds of a validly issued Federal credit instrument pursuant to, and in accordance with, Section 10 (*Prepayment*).

(f) Acquisitions; Change in Legal Structure; Sale of Assets; Transactions with Third Parties. The Borrower shall not, and shall not agree to:

(i) acquire by purchase or otherwise the business, property or fixed assets of, or equity interests or other evidence of beneficial ownership interests in, any Person (excluding purchases or other acquisitions of inventory or materials or spare parts or Capital Expenditures, each in the ordinary course of business in compliance with the annual budget set forth in the Financial Plan most recently submitted to the TIFIA Lender) to the extent such acquisition or purchase could reasonably be expected to have a Material Adverse Effect;

(ii) reorganize, consolidate with, or merge into another Person (other than the consolidation of South County Transit into the Borrower that is currently being planned by the Borrower) unless (A) such merger or consolidation is with or into another transit agency or district in the State, and, in each case, including reorganization, would not reasonably be expected to adversely affect or impair to any extent or in any manner (1) the Revenues or other elements of the Collateral, or (2) the availability of the Revenues for the payment and security of the obligations of the Borrower under this Agreement or the other TIFIA Loan Documents; and (B) the Borrower provides to the TIFIA Lender, no later than sixty (60) days prior to the date of reorganization, consolidation or merger, prior written notice of such reorganization, consolidation or merger and the agreements and documents authorizing the reorganization, consolidation or merger, satisfactory in form and substance to the TIFIA Lender. The documents authorizing any reorganization, consolidation or merger shall contain a provision, satisfactory in form and substance to the TIFIA Lender, that, following such reorganization, consolidation or merger, the successor will assume, by operation of law or otherwise, the due and punctual performance and observance of all of the representations, warranties, covenants, agreements and conditions of this Agreement and the other Related Documents to which the Borrower is a party. In addition, the Borrower shall provide all information concerning such reorganization, consolidation or merger as shall have been reasonably requested by the TIFIA Lender;

(iii) sell, lease, or assign its rights in and to the transit system operated by the Borrower or to the Project, or its material assets or its rights or obligations under any Related Document in a transaction not described in sub-clause (A) of Section

16(f)(ii) above, to the extent such sale, lease or assignment could reasonably be expected to have a Material Adverse Effect; or

(iv) otherwise engage in a transaction with any other Person (including any other Governmental Authority of or in the State) to the extent such transaction could reasonably be expected to have a Material Adverse Effect.

(g) No Defeasance of TIFIA Loan. The Borrower shall not defease the TIFIA Loan without the prior written consent of the TIFIA Lender.

(h) OFAC Compliance.

(i) The Borrower shall not:

(A) violate (1) any applicable Anti-Money Laundering Laws, (2) any applicable Sanctions, (3) Anti-Corruption Laws or (4) any applicable anti-drug trafficking or anti-terrorism laws, civil or criminal;

(B) use the proceeds of the TIFIA Loan for purposes other than those permitted by applicable law and as otherwise permitted under this Agreement, the other Related Documents and the Construction-Related Contracts; or

(C) make a payment, directly or indirectly, to any Construction-Related Contract Party that has violated any of the laws referenced in Section 16(h)(i) (*OFAC Compliance*) or that is a Sanctioned Person.

(ii) The Borrower shall procure that each of its directors, officers, employees, and agents, shall not, directly or indirectly, use the proceeds of the TIFIA Loan or lend to, make any payment to, contribute or otherwise make available any funds to any joint venture partner or other Person (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any applicable Anti-Corruption Laws, (B) in any manner that would result in the violation of any applicable Anti-Money Laundering Laws, (C) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or (D) in any other manner that would result in the violation of any Sanctions by any Person (including the Executive Director, the TIFIA Lender, or a Construction-Related Contract Party).

(i) Hedging. The Borrower shall not enter into any swap or hedging transaction, including inflation indexed swap transactions, “cap” or “collar” transactions, futures, or any other hedging transaction without the prior written consent of the TIFIA Lender.

Section 17. Indemnification. The Borrower shall indemnify the TIFIA Lender and any official, employee, agent, advisor, or representative of the TIFIA Lender (each such Person being herein referred to as an “**Indemnatee**”) against, and hold each Indemnatee harmless from, any and all losses, claims, damages, liabilities, fines, penalties, costs and expenses (including the fees, charges and disbursements of any counsel for any Indemnatee and the costs of environmental remediation), whether known, unknown, contingent or otherwise, incurred by or

asserted against any Indemnitee arising out of, in connection with, or as a result of (a) the execution, delivery and performance of this Agreement or any of the other Related Documents, (b) the TIFIA Loan or the use of the proceeds thereof, or (c) the violation of any law, rule, regulation, order, decree, judgment or administrative decision relating to the environment, the preservation or reclamation of natural resources, the management, release or threatened release of any hazardous material or to health and safety matters; in each case arising out of or in direct relation to the Project; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities, fines, penalties, costs or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee. In case any action or proceeding is brought against an Indemnitee by reason of any claim with respect to which such Indemnitee is entitled to indemnification hereunder, the Borrower shall be entitled, at its expense, to participate in the defense thereof; provided that such Indemnitee has the right to retain its own counsel, at the Borrower's expense, and such participation by the Borrower in the defense thereof shall not release the Borrower of any liability that it may have to such Indemnitee. Any Indemnitee against whom any indemnity claim contemplated in this Section 17 (*Indemnification*) is made shall be entitled, after consultation with the Borrower and upon consultation with legal counsel wherein such Indemnitee is advised that such indemnity claim is meritorious, to compromise or settle any such indemnity claim. Any such compromise or settlement shall be binding upon the Borrower for purposes of this Section 17 (*Indemnification*). Nothing herein shall be construed as a waiver of any legal immunity that may be available to any Indemnitee. To the extent permitted by applicable law, neither the Borrower nor the TIFIA Lender shall assert, and each of the Borrower and the TIFIA Lender hereby waives, any claim against any Indemnitee or the Borrower, respectively, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any of the other Related Documents, the other transactions contemplated hereby and thereby, the TIFIA Loan or the use of the proceeds thereof, provided that nothing in this sentence shall limit the Borrower's indemnity obligations to the extent such damages are included in any third party claim in connection with which an Indemnitee is entitled to indemnification hereunder. All amounts due to any Indemnitee under this Section 17 (*Indemnification*) shall be payable promptly upon demand therefor. The obligations of the Borrower under this Section 17 (*Indemnification*) shall survive the payment or prepayment in full or transfer of the TIFIA Note, the enforcement of any provision of this Agreement or the other Related Documents, any amendments, waivers (other than amendments or waivers in writing with respect to this Section 17 (*Indemnification*)) or consents in respect hereof or thereof, any Event of Default, and any workout, restructuring or similar arrangement of the obligations of the Borrower hereunder or thereunder.

Section 18. Sale of TIFIA Loan. The TIFIA Lender shall not sell the TIFIA Loan at any time prior to the Substantial Completion Date. At any time after Substantial Completion, the TIFIA Lender may sell the TIFIA Loan to another entity or reoffer the TIFIA Loan into the capital markets only in accordance with the provisions of this Section 18 (*Sale of TIFIA Loan*). Any such sale or reoffering shall be on such terms as the TIFIA Lender shall deem acceptable in its sole discretion. However, in making such sale or reoffering the TIFIA Lender shall not change the terms and conditions of the TIFIA Loan without the prior written consent of the Borrower in accordance with Section 29 (*Amendments and Waivers*). The TIFIA Lender shall provide, at least thirty (30) days prior to any sale or reoffering of the TIFIA Loan, written notice

to the Borrower of the TIFIA Lender's intention to consummate such a sale or reoffering; provided, however, that no such notice shall be required during the continuation of any Event of Default. The provision of any notice pursuant to this Section 18 (*Sale of TIFIA Loan*) shall not (x) obligate the TIFIA Lender to sell nor (y) provide the Borrower with any rights or remedies in the event the TIFIA Lender, for any reason, does not sell the TIFIA Loan.

Section 19. Events of Default and Remedies.

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

(i) Payment Default. The Borrower shall fail to pay (A) any amount of principal of or interest on the TIFIA Loan (including TIFIA Debt Service required to have been paid pursuant to the provisions of Section 9 (*Payment of Principal and Interest*) when due and payable or (B) any fee or other amount payable hereunder within five (5) Business Days after such fee or other amount becomes due and payable (each such failure, a “**Payment Default**”).

(ii) Covenant Default. The Borrower shall fail to observe or perform any covenant, agreement or obligation of the Borrower under this Agreement, the TIFIA Note or the CASA (other than in the case of any Payment Default or any Development Default), and such failure shall not be cured within thirty (30) days after the earlier to occur of (A) receipt by the Borrower from the TIFIA Lender of written notice thereof, or (B) the Borrower's knowledge of such failure; provided, however, that if such failure is capable of cure but cannot reasonably be cured within such thirty (30) day cure period, then no Event of Default shall be deemed to have occurred or be continuing under this Section 19(a)(ii) (*Covenant Default*), and such thirty (30) day cure period shall be extended by up to one hundred fifty (150) additional days, if and so long as (x) within such thirty (30) day cure period the Borrower shall commence actions reasonably designed to cure such failure and shall diligently pursue such actions until such failure is cured, and (y) such failure is cured within one hundred eighty (180) days of the date specified in either (A) or (B) above, as applicable.

(iii) Development Default. A Development Default shall occur, in which case the TIFIA Lender may (A) suspend the disbursement of TIFIA Loan proceeds under this Agreement and (B) pursue such other remedies as provided in this Section 19 (*Events of Default and Remedies*).

(iv) Misrepresentation Default. Any of the representations, warranties or certifications of the Borrower made in or delivered pursuant to the TIFIA Loan Documents (or in any certificates delivered by the Borrower in connection with the TIFIA Loan Documents) shall prove to have been false or misleading in any material respect when made or deemed made (or any representation and warranty that is subject to a materiality qualifier shall prove to have been false or misleading in any respect); provided that no Event of Default shall be deemed to have occurred under this Section 19(a)(iv) (*Misrepresentation Default*) if and so long as:

(A) such misrepresentation is not intentional;

(B) such misrepresentation is not a misrepresentation in respect of Section 13(h) (*No Debarment*), Section 13(j) (*Compliance with Federal Requirements*), Section 13(k) (*Transportation Improvement Program*), Section 13(q) (*OFAC; Anti-Corruption Laws*), Section 13(cc) (*Patriot Act*) or Section 13(dd) (*Irrevocable Instructions*);

(C) in the reasonable determination of the TIFIA Lender, such misrepresentation has not had, and would not reasonably be expected to result in, a Material Adverse Effect;

(D) in the reasonable determination of the TIFIA Lender, the underlying issue giving rise to the misrepresentation is capable of being cured;

(E) the underlying issue giving rise to the misrepresentation is cured by the Borrower within thirty (30) days from the date on which the Borrower first became aware (or reasonably should have become aware) of such misrepresentation; and

(F) the Borrower diligently pursues such cure during such thirty (30) day period.

(v) Acceleration of Other Obligations. Any acceleration shall occur of the maturity of any Pari Passu Obligations or Subordinated Obligations.

(vi) Events of Default under Other Financing Documents. Any default under (and as defined in) any Other Financing Document shall occur and shall not have been cured by the Borrower or waived in writing in accordance with the requirements of the applicable Other Financing Document within the applicable cure period (if any) provided under such Other Financing Document.

(vii) Judgments. One or more judgments (A) for the payment of money in an aggregate amount in excess of \$5,000,000 (inflated annually by CPI) that are payable from Revenues or the Collateral and are not otherwise fully covered by insurance (for which the insurer has acknowledged and not disputed coverage) or (B) that would reasonably be expected to result in a Material Adverse Effect shall, in either case, be rendered against the Borrower, and the same shall remain undischarged for a period of thirty (30) consecutive days during which time period execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrower to enforce any such judgment.

(viii) Failure to Maintain Existence. The Borrower shall fail to maintain its existence as a joint powers authority under the laws of the State, unless at or prior to the time the Borrower ceases to exist in such form a successor public agency or governing body has been created by the State pursuant to a valid and unchallenged State law and has succeeded to the assets of the Borrower and has assumed all of the

obligations of the Borrower under the TIFIA Loan Documents and the Other Financing Documents, including the payment of all Secured Obligations.

(ix) Occurrence of a Bankruptcy Related Event. A Bankruptcy Related Event shall occur with respect to the Borrower.

(x) Project Abandonment. The Borrower shall abandon the Project.

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

(xii) Authorizing Legislation. The Authorizing Legislation shall be repealed or shall be amended or modified in such a manner that could reasonably be expected to result in a Material Adverse Effect.

(xiii) TDA. The TDA shall be repealed or shall be amended or modified in such a manner that could reasonably be expected to result in a Material Adverse Effect.

(b) Upon the occurrence of an Event of Default described in Section 19(a)(iii) (*Development Default*), the TIFIA Lender may (i) suspend the disbursement of TIFIA Loan proceeds hereunder, (ii) terminate all of its obligations hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan, and/or (iii) request that the Borrower repay any unexpended TIFIA Loan proceeds previously disbursed to the Borrower.

(c) Upon the occurrence of any Bankruptcy Related Event with respect to the Borrower, all obligations of the TIFIA Lender hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan shall automatically be deemed terminated, and the Outstanding TIFIA Loan Balance, together with all interest accrued thereon and all fees, costs, expenses, indemnities and other amounts payable under this Agreement, the TIFIA Note or the other TIFIA Loan Documents, shall automatically become immediately due and payable, without presentment, demand, notice, declaration, protest or other requirements of any kind, all of which are hereby expressly waived.

(d) Upon the occurrence of any other Event of Default, the TIFIA Lender, by written notice to the Borrower, may (i) suspend or terminate all of its obligations hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan, and (ii) declare the unpaid principal amount of the TIFIA Note to be, and the same shall thereupon forthwith become, immediately due and payable, together with the interest accrued thereon and all fees, costs, expenses, indemnities and other amounts payable under this Agreement, the TIFIA Note or

the other TIFIA Loan Documents, all without presentment, demand, notice, protest or other requirements of any kind, all of which are hereby expressly waived.

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

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

(g) No action taken pursuant to this Section 19 (*Events of Default and Remedies*) shall relieve Borrower from its obligations pursuant to this Agreement, the TIFIA Note or the other TIFIA Loan Documents, all of which shall survive any such action.

Section 20. Accounting and Audit Procedures; Inspections; Reports and Records.

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

(b) Inspections. So long as the TIFIA Loan or any portion thereof shall remain outstanding and until five (5) years after the TIFIA Loan shall have been paid in full, the TIFIA Lender shall have the right, upon reasonable prior notice, to visit and inspect any of the locations or properties of the Borrower, to examine its books of account and records, to make copies and extracts therefrom at the Borrower's expense, and to discuss the Borrower's affairs, finances and accounts with, and to be advised as to the same by, its officers and employees and its independent public accountants (and by this provision the Borrower irrevocably authorizes its independent public accountants to discuss with the TIFIA Lender the affairs, finances and accounts of the Borrower, whether or not any representative of the Borrower is present, it being understood that nothing contained in this Section 20(b) (*Inspections*) is intended to confer any right to exclude any such representative from such discussions), all at such reasonable times and

intervals as the TIFIA Lender may desire. The Borrower agrees to pay all out-of-pocket expenses incurred by the TIFIA Lender in connection with the TIFIA Lender's exercise of its rights under this Section 20(b) (*Inspections*) at any time when an Event of Default shall have occurred and be continuing.

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

(d) Required Audit. The Borrower shall have a single or program-specific audit conducted in accordance with 2 C.F.R. Part 200 Subpart F and 31 U.S.C. § 7502 in 2020 and annually thereafter, except to the extent biennial audits are permitted for the Borrower pursuant to 2 C.F.R. § 200.504 and 31 U.S.C. § 7502(b). Upon reasonable notice, the Borrower shall cooperate fully in the conduct of any periodic or compliance audits conducted by the TIFIA Lender, the USDOT, or designees thereof, pursuant to 49 C.F.R. § 80.19, 31 U.S.C. § 7503(b), or 31 U.S.C. § 6503(h) and shall provide full access to any books, documents, papers or other records that are pertinent to the Project or the TIFIA Loan, to the Secretary, or the designee thereof, for any such project or programmatic audit.

Section 21. Financial Plan, Statements, and Reports.

(a) Financial Plan. The Borrower shall provide a Financial Plan to the TIFIA Lender and the FTA Regional Office within sixty (60) days after the Effective Date and annually thereafter, not later than the date of delivery of the Borrower's annual audited financial statements in accordance with Section 21(b) (*Financial Statements*). The Financial Plan submitted within sixty (60) days after the Effective Date should be consistent in all respects with the projections, assumptions and other information contained or reflected in the Base Case Financial Model.

(i) The Financial Plan shall include: (A) a certificate signed by the Borrower's Authorized Representative to the effect that the Financial Plan, including the assumptions and supporting documentation, is accurate and reasonable to the best of the Borrower's knowledge and belief; (B) a certificate signed by the Borrower's Authorized Representative demonstrating that annual projected LTF Funds and Farebox Revenues to be received by or on behalf of the Borrower, in the aggregate, shall be sufficient to meet the Loan Amortization Schedule and to meet the Borrower's debt service obligations with respect to any other Permitted Debt, including all debt service obligations pursuant to the Other Financing Documents; and (C) an electronic copy of a Revised Financial Model for the period from the Effective Date through the end of the fifth (5th) Borrower Fiscal Year after the current Borrower Fiscal Year, in substantially the form of the Base Case

Financial Model, based upon assumptions and projections with respect to the Revenues and expenses of the Borrower as of the most recent practicable date prior to the delivery of such Revised Financial Model.

(ii) Each Financial Plan shall:

(A) provide a narrative that, in reasonable detail, (1) identifies any potential Revenues or funding shortfalls and (2) describes any material matters that may affect the future performance of the Borrower's obligations under this Agreement and the causes thereof, including a summary of reports prepared by or on behalf of the Borrower relating to the Collateral, the Revenues, operational contracts, and third-party transactions;

(B) provide (1) the current balance of each of the accounts and subaccounts established under the CASA and any other accounts of the Borrower and (2) the amounts deposited into each of the accounts and subaccounts established under the CASA and any other accounts of the Borrower and the amount disbursed from such funds and accounts, in each case during the prior Borrower Fiscal Year;

(C) provide the actual Senior Debt Service Coverage Ratios for the prior Calculation Period;

(D) provide the total LTF Funds (1) available to be claimed by the Borrower, (2) budgeted for by the Borrower, (3) claimed by the Borrower, and (4) allocated to the Borrower, in each case during the prior Borrower Fiscal Year; and

(E) provide the current estimate of the Farebox Recovery Ratio and the then-applicable minimum required by the TDA.

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

(A) provide the current estimate of Total Project Costs and the remaining cost to complete the Project, and identify any significant cost changes since the previous Financial Plan;

(B) provide updates to the Construction Schedule and discuss reasons for any changes to the expected completion of any Project milestones;

(C) provide current estimates of sources and uses of funds for the Project, identify any significant funding changes since the preceding Financial Plan, and discuss reasons for and implications of the funding changes; and

(D) provide the total value of approved changes in Project design or scope, and provide a listing of each individual change valued at ten

percent (10%) of Total Project Costs or more, setting forth the rationale or need for the proposed change and describing the impact of such change on the Project.

(iv) Any schedule or other description of projected or actual Revenues of the Borrower in the Financial Plan shall be broken down by each major category of Revenues (e.g., LTF Funds, Farebox Revenues, etc.).

(b) Financial Statements.

(i) The Borrower shall furnish to the TIFIA Lender:

(A) as soon as available, but no later than five (5) Business Days after presentment to the Borrower's board or directors, a copy of the unaudited operating and financial results attached to the Borrower's executive director's report presented every two months to the Borrower's board of directors; and

(B) as soon as available, but no later than one hundred eighty (180) days after the end of each Borrower Fiscal Year, a copy of the audited income statement and balance sheet of the Borrower as of the end of such fiscal year and the related audited statements of operations and of cash flow of the Borrower for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, certified without a "going concern" or like qualification or exception, or qualification as to the scope of the audit, by an independent public accounting firm selected by the Borrower and which is reasonably acceptable to the TIFIA Lender.

(ii) All such audited financial statements shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GAAP applied consistently throughout the periods reflected therein (except for changes approved or required by the independent public accountants certifying such statements and disclosed therein).

(c) Officer's Certificate. The Borrower shall furnish to the TIFIA Lender, together with each delivery of annual audited financial statements or interim unaudited operating and financial results of the Borrower pursuant to Section 21(b) (*Financial Statements*), a certificate signed by the chief executive officer or chief financial officer of the Borrower or any Borrower's Authorized Representative, stating whether or not, to the Borrower's knowledge, during the annual or other period (as the case may be) covered by such financial statements or operating and financial results, as applicable, there occurred any Event of Default or event that, with the giving of notice or the passage of time or both, would become an Event of Default, and, if any such Event of Default or other event shall have occurred during such period, the nature of such Event of Default or other event and the actions that the Borrower has taken or intends to take in respect thereof.

Section 22. Project Oversight and Monitoring.

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

(b) Reporting.

(i) Quarterly Construction Progress Report. On or before the thirtieth (30th) day following the end of each calendar quarter during the Construction Period, the Borrower shall deliver to the TIFIA Lender a report (which may consist in whole or in part of reports received by Borrower from one or more of its contractors) that:

(A) specifies the amount of Total Project Costs expended since the Effective Date as well as during the preceding calendar quarter and the amount of Total Project Costs estimated to be required to complete the Project;

(B) provides a revised Project Budget updated through the end of the preceding calendar quarter;

(C) provides a demonstration that the Borrower has sufficient funds (including funds on hand and funds obtainable without undue delay or conditions that cannot reasonably be satisfied by the Borrower as and when such funds are needed) to complete the Project, taking into account any changes to the amount of Total Project Costs that are reflected in such quarterly construction progress report (or prior quarterly construction progress reports);

(D) to the extent there has been any change (increase or decrease) to the Total Project Costs needed to achieve Substantial Completion since the most recent quarterly construction progress report, provides a narrative description of such changes (specifying the amounts of such changes) and, in the case of any increase to the Total Project Costs, a narrative description of how the Borrower will pay for such increased Total Project Costs;

(E) provides an assessment of the overall construction progress of the Project since the date of the last report and since the Effective Date, together with an assessment of how such progress compares to the Construction Schedule;

(F) specifies the most recent projections for the Substantial Completion Date as compared to the Projected Substantial Completion Date specified in the Financial Plan most recently submitted to the TIFIA Lender;

(G) provides a detailed description of all material problems (including actual and anticipated cost and/or schedule overruns, if any) encountered or anticipated in connection with the construction of the Project since the date of the last report, together with an assessment of how such problems may impact the Construction Schedule and the meeting of critical dates thereunder and a detailed description of the proposed solutions to any such problems;

(H) specifies the delivery status of major equipment and the effect, if any, that the anticipated delivery dates of such equipment has on the overall Construction Schedule;

(I) specifies any proposed or pending change orders;

(J) specifies any material changes or deviations from the Borrower's land procurement plans or schedule;

(K) includes a copy of each report delivered by a Construction-Related Contract Party to the Borrower that has not previously been delivered to the TIFIA Lender in a prior report delivered pursuant to this Section 22(b)(i) (*Quarterly Construction Progress Report*); and

(L) provides a discussion or analysis of such other matters related to the Project as the TIFIA Lender may reasonably request.

(ii) Recovery Plan. If the quarterly construction progress report described in Section 22(b)(i) (*Quarterly Construction Progress Report*) or the monthly report issued pursuant to the FTA Project Management Oversight Regulations indicates either a failure to maintain the Construction Schedule, including a failure to achieve Substantial Completion by the Projected Substantial Completion Date or the anticipated Substantial Completion Date set forth in the previous quarterly construction progress report provided pursuant to Section 22(b)(i) (*Quarterly Construction Progress Report*), or actual or projected Eligible Project Cost overruns in excess of five percent (5%) of the Eligible Project Costs reflected in the Project Budget, or both, then the Borrower shall notify the TIFIA Lender and the FTA Regional Office of such failure and shall, upon request by the TIFIA Lender or the FTA Regional Office, provide the TIFIA Lender and the FTA Regional Office within thirty (30) days of receipt of such request, a Recovery Plan for review and acceptance by the TIFIA Lender and the FTA Regional Office.

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

commercially reasonable efforts to cause the Construction-Related Contract Parties to respond, to the TIFIA Lender's inquiries regarding the construction of the Project.

(c) Project Operations. For the period following the Substantial Completion Date, the TIFIA Lender shall have the right, in its sole discretion, to monitor (or direct its agents to monitor) the Project's operations and, as the TIFIA Lender may request from time to time, to receive reporting on the operation and management of the Project, and copies of any contracts relating to the operation, maintenance, and safety services for the Project. The Borrower agrees to cooperate in good faith with the TIFIA Lender in the conduct of such monitoring by promptly providing the TIFIA Lender with such reports, documentation, or other information requested by the TIFIA Lender. The TIFIA Lender has the right, in its sole discretion, to retain a financial oversight advisor, under a contract with the TIFIA Lender, to carry out the provisions of this Section 22(c).

(d) Consulting Engineer.

(i) If requested in writing by the TIFIA Lender (in circumstances where the Borrower does not already have a designated Consulting Engineer), the Borrower shall hire and retain a Consulting Engineer until final acceptance of the Project by the Borrower.

(ii) Any Consulting Engineer retained by the Borrower shall advise the TIFIA Lender (with a duty of care to the TIFIA Lender) with regard to all technical matters related to the performance by the Borrower of its obligations under this Agreement and the Related Documents.

(iii) The Borrower may designate or replace the Consulting Engineer; provided, that the TIFIA Lender shall have the right to object to any such Consulting Engineer (and the Borrower shall not retain any proposed Consulting Engineer if the TIFIA Lender has objected in writing to such proposed Consulting Engineer). The Borrower shall provide the TIFIA Lender with thirty (30) Business Days' advance written notice of any proposed initial or replacement Consulting Engineer, together with supporting information concerning the qualifications of the proposed Consulting Engineer. The Borrower may designate the proposed Consulting Engineer unless the TIFIA Lender objects in writing within fifteen (15) Business Days following receipt of the Borrower's notice above. Any such objection by the TIFIA Lender shall include a reasonable description of its reasons for objecting to the proposed Consulting Engineer. The Borrower shall pay for all services performed by the Consulting Engineer.

Section 23. No Personal Recourse. No official, employee or agent of the TIFIA Lender or the Borrower or any Person executing this Agreement or any of the other TIFIA Loan Documents shall be personally liable on this Agreement or such other TIFIA Loan Documents by reason of the issuance, delivery or execution hereof or thereof.

Section 24. No Third Party Rights. The parties hereby agree that this Agreement creates no third party rights against the Borrower, the Federal Government, or the TIFIA Lender, solely by virtue of the TIFIA Loan, and the Borrower agrees to indemnify and hold the TIFIA

Lender, the Servicer (if any), the Executive Director, and the Federal Government harmless, to the extent permitted by law and in accordance with Section 17 (*Indemnification*), from any lawsuit or claim arising in law or equity solely by reason of the TIFIA Loan, and that no third party creditor or creditors of the Borrower shall have any right against the TIFIA Lender with respect to the TIFIA Loan made pursuant to this Agreement.

Section 25. Borrower's Authorized Representative. The Borrower shall at all times have appointed a Borrower's Authorized Representative by designating such Person or Persons from time to time to act on the Borrower's behalf pursuant to a written certificate furnished to the TIFIA Lender and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the Borrower.

Section 26. TIFIA Lender's Authorized Representative.

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

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

Section 27. Servicer. The TIFIA Lender may from time to time designate another entity or entities to perform, or assist the TIFIA Lender in performing, the duties of the Servicer or specified duties of the TIFIA Lender under this Agreement and the TIFIA Note. The TIFIA Lender shall give the Borrower written notice of the appointment of any successor or additional Servicer and shall enumerate the duties or any change in duties to be performed by any Servicer. Any references in this Agreement to the TIFIA Lender shall be deemed to be a reference to the Servicer with respect to any duties which the TIFIA Lender shall have delegated to such Servicer. The TIFIA Lender may at any time assume the duties of any Servicer under this Agreement and the TIFIA Note. The Borrower shall cooperate and respond to any reasonable request of the Servicer for information, documentation or other items reasonably necessary for the performance by the Servicer of its duties hereunder.

Section 28. Fees and Expenses. The Borrower agrees, whether or not the transactions hereby contemplated shall be consummated, to reimburse the TIFIA Lender on demand from time-to-time, within thirty (30) days after receipt of any invoice from the TIFIA Lender, for any and all fees, costs, charges, and expenses incurred by it (including the reasonable fees, costs, and expenses of its legal counsel, financial advisors, auditors and any technical or other consultants and advisors, such reasonableness determined in accordance with Part 31 of the Federal Acquisition Regulation) in connection with the negotiation, preparation, execution, delivery, and performance of this Agreement and the other TIFIA Loan Documents and the transactions hereby and thereby contemplated, including reasonable attorneys', and engineers' fees and professional costs, including all such fees, costs, and expenses incurred as a result of or in connection with:

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

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

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

The obligations of the Borrower under this Section 28 (*Fees and Expenses*) shall survive the payment or prepayment in full or transfer of the TIFIA Note, the enforcement of any provision of this Agreement or the other TIFIA Loan Documents, any such amendments, waivers or consents, any Event of Default, and any such workout, restructuring, or similar arrangement.

Section 29. Amendments and Waivers. No amendment, modification, termination, or waiver of any provision of this Agreement shall in any event be effective without the written consent of each of the parties hereto.

Section 30. Governing Law. This Agreement shall be governed by the federal laws of the United States of America if and to the extent such federal laws are applicable and the internal laws of the State, if and to the extent such federal laws are not applicable.

Section 31. Severability. In case any provision in or obligation under this Agreement shall be invalid, illegal, or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 32. Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective permitted successors and assigns and shall inure to the benefit of the parties hereto and their permitted successors and assigns. Neither the Borrower's rights or

obligations hereunder nor any interest therein may be assigned, delegated, or transferred by the Borrower without the prior written consent of the TIFIA Lender.

Section 33. Remedies Not Exclusive. No remedy conferred herein or reserved to the TIFIA Lender is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 34. Delay or Omission Not Waiver. No delay or omission of the TIFIA Lender to exercise any right or remedy provided hereunder upon a default of the Borrower (except a delay or omission pursuant to a written waiver) shall impair any such right or remedy or constitute a waiver of any such default or acquiescence therein. Every right and remedy given by this Agreement or by law to the TIFIA Lender may be exercised from time to time, and as often as may be deemed expedient by the TIFIA Lender.

Section 35. Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. Electronic delivery of an executed counterpart of a signature page of this Agreement or of any document or instrument delivered in connection herewith in accordance with Section 36 (*Notices; Payment Instructions*) shall be effective as delivery of an original executed counterpart of this Agreement or such other document or instrument, as applicable, and any printed or copied versions of any signature page so delivered shall have the same force and effect as an originally signed version of such signature page. Signatures for this Agreement or for any document or instrument delivered in connection herewith may be made by electronic means, if accompanied by an email from the applicable signatory, contemporaneous or otherwise, confirming the use of such means.

Section 36. Notices; Payment Instructions. Notices hereunder shall be (a) in writing, (b) effective as provided below and (c) given by (i) nationally recognized courier service, (ii) hand delivery, or (iii) email, in each case to:

If to TIFIA Lender:

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

with copies to:

Region IX Office
Federal Transit Administration
San Francisco Federal Building
90 7th Street
Suite 15-300
San Francisco, CA 94103
Attention: Ray Tellis, Regional
Administrator

If to Borrower:

San Luis Obispo Regional Transit
Authority
179 Cross Street, Suite A
San Luis Obispo, CA 93401
Attention: Tania Arnold, CPA
Deputy Director/Chief Financial
Officer
(805) 781-4397
Email: tarnold@slorta.org

with a copy to:

Attention: Geoff Straw
Executive Director
(805) 781-4465
Email: gstraw@slorta.org

Unless otherwise instructed by the TIFIA Lender's Authorized Representative, all notices to the TIFIA Lender should be made by email to the email address noted above for the TIFIA Lender. Notices required to be provided herein shall be provided to such different addresses or to such further parties as may be designated from time to time by a Borrower's Authorized Representative, with respect to notices to the Borrower, or by the TIFIA Lender's Authorized Representative, with respect to notices to the TIFIA Lender or the Servicer, if any. The Borrower shall make any payments hereunder or under the TIFIA Note in accordance with Section 9(c) (*Manner of Payment*) and the payment instructions hereafter provided by the TIFIA Lender's Authorized Representative, as modified from time-to-time by the TIFIA Lender. Each such notice, request or communication shall be effective (x) if delivered by hand or by nationally recognized courier service, when delivered at the address specified in this Section 36 (*Notices; Payment Instructions*) (or in accordance with the latest unrevoked written direction from the receiving party) and (y) if given by email, when such email is delivered to the address specified in this Section 36 (*Notices; Payment Instructions*) (or in accordance with the latest unrevoked written direction from the receiving party); provided that notices received on a day that is not a Business Day or after 5:00 p.m. Eastern Time on a Business Day will be deemed to be effective on the next Business Day.

Section 37. Effectiveness. This Agreement shall be effective on the Effective Date.

Section 38. Termination. This Agreement shall terminate upon the irrevocable payment in full in cash by the Borrower of the Outstanding TIFIA Loan Balance, together with all accrued interest and fees with respect thereto; provided, however, that the indemnification requirements of Section 17 (*Indemnification*), the reporting and record keeping requirements of Section 20(b) (*Inspections*) and Section 20(c) (*Reports and Records*), and the payment requirements of Section 28 (*Fees and Expenses*) shall survive the termination of this Agreement as provided in such sections.

Section 39. Integration. This Agreement constitutes the entire contract between the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

[Signature pages follow]

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

**SAN LUIS OBISPO REGIONAL
TRANSIT AUTHORITY**

By: _____

Name: Geoff Straw

Title: Executive Director

*[Signature Page to San Luis Obispo Regional Transit Authority O&M Facility Project TIFIA
Loan Agreement]*

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

By: _____

Name: Dr. Morteza Farajian

Title: Executive Director

*[Signature Page to San Luis Obispo Regional Transit Authority O&M Facility Project TIFIA
Loan Agreement]*

SCHEDULE I

PROJECT BUDGET

[To be provided by Borrower]

SCHEDULE II
CONSTRUCTION SCHEDULE

[To be provided by Borrower]

SCHEDULE III
EXISTING INDEBTEDNESS

I. Pari Passu Obligations

	Agreement/Series	Outstanding Principal²
A	Loan issued pursuant to that certain Credit Agreement, dated as of July 21, 2020, between the Borrower and the Bank Lender	\$50,000

² As of Effective Date

SCHEDULE IV

SECTION 5.03(b) OF THE CASA

[To be provided.]

EXHIBIT A
FORM OF TIFIA NOTE
SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY
O&M FACILITY PROJECT
(TIFIA – 2020-1006A)

TIFIA NOTE

Maximum Principal Amount: \$13,080,000

Effective Date: _____ Due: _____

The SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY, a joint powers authority created under the laws of the State of California (the “**Borrower**”), for value received, hereby promises to pay to the order of the **UNITED STATES DEPARTMENT OF TRANSPORTATION**, acting by and through the Executive Director of the Build America Bureau, or its assigns (the “**TIFIA Lender**”), the lesser of (x) the Maximum Principal Amount set forth above and (y) the aggregate unpaid principal amount of all disbursements (the “**Disbursements**”) made by the TIFIA Lender (such lesser amount being hereinafter referred to as the “**Outstanding Principal Sum**”), together with accrued and unpaid interest (including, if applicable, interest at the Default Rate, as defined in the TIFIA Loan Agreement) on the Outstanding Principal Sum and all fees, costs and other amounts payable in connection therewith, all as more fully described in the TIFIA Loan Agreement. The principal hereof shall be payable in the manner and at the place provided in the TIFIA Loan Agreement in accordance with **Exhibit G** to the TIFIA Loan Agreement, as revised from time to time in accordance with the TIFIA Loan Agreement, until paid in full. The TIFIA Lender is hereby authorized to modify the Loan Amortization Schedule included in **Exhibit G** to the TIFIA Loan Agreement from time to time in accordance with the terms of the TIFIA Loan Agreement to reflect the amount of each disbursement made thereunder and the date and amount of principal or interest paid by the Borrower thereunder. Absent manifest error, the TIFIA Lender’s determination of such matters as set forth on **Exhibit G** to the TIFIA Loan Agreement shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower’s obligations hereunder or under any other TIFIA Loan Document.

Payments hereon are to be made in accordance with Section 9(c) (*Manner of Payment*) and Section 36 (*Notices; Payment Instructions*) of the TIFIA Loan Agreement as the same become due. Principal of and interest on this TIFIA Note shall be paid in funds available on or before the due date and in any lawful coin or currency of the United States of America that at the date of payment is legal tender for the payment of public and private debts.

This TIFIA Note has been executed under and pursuant to that certain TIFIA Loan Agreement, dated as of the date hereof, between the TIFIA Lender and the Borrower (the “**TIFIA Loan Agreement**”) and is issued to evidence the obligation of the Borrower under the TIFIA Loan Agreement to repay the loan made by the TIFIA Lender and any other payments of any kind required to be paid by the Borrower under the TIFIA Loan Agreement or the other TIFIA Loan Documents referred to therein. Reference is made to the TIFIA Loan Agreement for all details relating to the Borrower’s obligations hereunder. All capitalized terms used in this TIFIA Note and not defined herein shall have the meanings set forth in the TIFIA Loan Agreement.

This TIFIA Note may be prepaid at the option of the Borrower in whole or in part (and, if in part, the principal installments and amounts thereof to be prepaid are to be determined in accordance with the TIFIA Loan Agreement; provided, however, such prepayments shall be in principal amounts of at least \$100,000), at any time or from time to time, without penalty or premium, by paying to the TIFIA Lender all or part of the principal amount of the TIFIA Note in accordance with the TIFIA Loan Agreement.

Payment of the obligations of the Borrower under this TIFIA Note is secured pursuant to the CASA and the TIFIA Loan Agreement.

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

All acts, conditions and things required by the Constitution and laws of the State to happen, exist, and be performed precedent to and in the issuance of this TIFIA Note have happened, exist and have been performed as so required. This TIFIA Note is issued with the intent that the federal laws of the United States of America shall govern its construction to the extent such federal laws are applicable and the internal laws of the State shall govern its construction to the extent such federal laws are not applicable.

IN WITNESS WHEREOF, the SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY has caused this TIFIA Note to be executed in its name and its seal to be affixed hereto and attested by its duly authorized officer, all as of the Effective Date set forth above.

**SAN LUIS OBISPO REGIONAL TRANSIT
AUTHORITY**

(SEAL)

By _____

Name: _____

Title: _____

ATTEST:

Secretary

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED, the Undersigned hereby unconditionally sells, assigns
and transfers unto

(Please Insert Social Security or other identifying number of Assignee(s)):

the within note and all rights thereunder.

Dated: _____

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

EXHIBIT B
ANTICIPATED TIFIA LOAN DISBURSEMENT SCHEDULE

[To be provided by Borrower]

<u>Borrower Fiscal Year</u>	<u>Amount</u>
	\$

EXHIBIT C

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

The undersigned, on behalf of the San Luis Obispo Regional Transit Authority (the “**Borrower**”), hereby certifies that the Borrower has fully complied with its verification obligations under 2 C.F.R. § 180.320 and hereby further confirms, based on such verification, that, to its knowledge, the Borrower and its principals (as defined in 2 C.F.R. § 180.995):

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

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

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

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

(e) Capitalized terms used in the certificate and not defined shall have the respective meanings ascribed to such terms in the TIFIA Loan Agreement, dated as of September [___], 2020 between the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau, and the Borrower, as the same may be amended from time to time.

Dated: September [___], 2020

**SAN LUIS OBISPO REGIONAL TRANSIT
AUTHORITY³**

By: _____

Name:

Title:

³ To be executed by Borrower’s Authorized Representative.

EXHIBIT D

REQUISITION PROCEDURES

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

Section 1. General Requirements. All requests by the Borrower for the disbursement of TIFIA Loan proceeds shall be made by electronic mail or overnight delivery service by submission to the TIFIA Lender, in accordance with Section 36 (*Notices; Payment Instructions*) of the TIFIA Loan Agreement, of a Requisition, in form and substance satisfactory to the TIFIA Lender and completed and executed by the Borrower's Authorized Representative. The form of Requisition is attached as Appendix One to this **Exhibit D**. Supporting documentation should be submitted with the Requisition.

All disbursement requests must be received by the TIFIA Lender at or before 5:00 P.M. (EST) on the first (1st) Business Day of a calendar month in order to obtain disbursement by the fifteenth (15th) day of such calendar month or, if such day is not a Business Day, the next succeeding Business Day. If a Requisition is approved by the TIFIA Lender, the TIFIA Lender will notify the Borrower of such approval and of the amount so approved.

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

- (a) submitted without signature;
- (b) submitted under signature of a Person other than a Borrower's Authorized Representative;
- (c) submitted after prior disbursement of all proceeds of the TIFIA Loan;
- (d) submitted without adequate documentation of Eligible Project Costs incurred or paid. Such documentation shall include invoices for costs incurred or paid. If a Consulting Engineer is retained as of such date by the Borrower, pursuant to Section 22(d) (*Consulting Engineer*) of the TIFIA Loan Agreement or otherwise, such documentation shall include the most recent certificate of or report prepared by the Consulting Engineer relating to the construction of the Project (to the extent not previously delivered to the TIFIA Lender); or

(e) submitted prior to the date that is one (1) month after the related Eligible Project Costs Documentation was delivered to the TIFIA Lender and the Servicer (if any), if applicable.

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

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

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

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

(b) the Borrower:

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

(ii) fails to construct the Project in a manner consistent with the Governmental Approvals with respect to the Project, or in accordance with the highest standards of the Borrower's industry, where such failure prevents or materially impairs the Project from fulfilling its intended purpose, or prevents or materially impairs the ability of the TIFIA Lender to monitor compliance by the Borrower with applicable federal or local law pertaining to the Project or with the terms and conditions of the TIFIA Loan Agreement; or

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

(iv) fails to satisfy the conditions set forth in Section 4 (*Disbursement Conditions*) or Section 12(b) (*Conditions Precedent to All Disbursements*) of the TIFIA Loan Agreement; or

(v) fails to deliver documentation satisfactory to the TIFIA Lender evidencing Eligible Project Costs claimed for disbursement, including Eligible Project Costs Documentation, if applicable, at the times and in the manner specified by the TIFIA Loan Agreement; provided, that in such case the TIFIA

Lender may, in its sole discretion, partially approve a disbursement request in respect of any amounts for which adequate documentation evidencing Eligible Project Costs has been provided and may, in its sole discretion, disburse in respect of such properly documented amounts.

Section 5. Government Shutdown. Notwithstanding anything to the contrary set forth in this **Exhibit D**, the TIFIA Lender (a) shall be entitled to withhold approval of any pending or subsequent requests for the disbursement of TIFIA Loan proceeds and (b) shall have no obligation to make any disbursement of proceeds of the TIFIA Loan to the Borrower (even if such disbursement has been approved by the TIFIA Lender), in each case if the TIFIA Lender's ability to make the relevant disbursement is impaired as a result of a partial or total shutdown of the operations of any federal department or agency (including the USDOT or any of its agencies), or any contractor of any such department or agency, due to a lapse in appropriations by Congress.

APPENDIX ONE TO EXHIBIT D

FORM OF REQUISITION

Build America Bureau

United States Department of Transportation
c/o Director, Office of Credit Programs

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

Region IX Office
Federal Transit Administration
San Francisco Federal Building
90 7th Street
Suite 15-300
San Francisco, CA 94103
Attention: Ray Tellis, Regional Administrator

[Loan Servicer]

[Address]

[Attention]

Re: SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY O&M FACILITY
PROJECT (TIFIA – 2020-1006A)

Ladies and Gentlemen:

Pursuant to Section 4 (*Disbursement Conditions*) of the TIFIA Loan Agreement, dated as of September [___], 2020 (the “**TIFIA Loan Agreement**”), by and between the SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY (the “**Borrower**”) and the UNITED STATES DEPARTMENT OF TRANSPORTATION, acting by and through the Executive Director of the Build America Bureau (the “**TIFIA Lender**”), we hereby request disbursement in the amount of \$[_____] in respect of Eligible Project Costs paid or incurred by or on behalf of the Borrower. Capitalized terms used but not defined herein have the meaning set forth in the TIFIA Loan Agreement. In connection with this Requisition the undersigned does hereby represent and certify the following:

1. This Requisition is Requisition number [_____].
2. The requested date of disbursement is [_____] 15, 20[___] (the “**Disbursement Date**”)[, which is the first Business Day following [_____] 15, 20[____]].
3. The amounts previously disbursed under the TIFIA Loan Agreement equal, in the aggregate, \$[_____]. The amounts previously disbursed and to be disbursed

under the Other Financing Documents in respect of Pari Passu Obligations as of the date of the requested disbursement equal, in the aggregate, \$[_____].

4. The amounts hereby requisitioned have been paid or incurred by or on behalf of the Borrower for Eligible Project Costs and have not been paid for or reimbursed by any previous disbursement from TIFIA Loan proceeds.
5. The amount of this Requisition, together with all prior Requisitions, does not exceed the amount of the TIFIA Loan.
6. All documentation evidencing the Eligible Project Costs to be reimbursed by the above-requested disbursement has been delivered by the Borrower at the times and in the manner specified by the TIFIA Loan Agreement.
7. The Borrower has all Governmental Approvals necessary as of the date hereof and as of the Disbursement Date (immediately after giving effect to the above-requested disbursement of TIFIA Loan proceeds), for the development, construction, operation and maintenance of the Project and each such Governmental Approval is in full force and effect (and is not subject to any notice of violation, breach or revocation).
8. Each of the insurance policies obtained and other insurance arrangements maintained by the Borrower in satisfaction of the condition in Section 12(a)(xvii) (Conditions Precedent to Effectiveness) of the TIFIA Loan Agreement is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider.
9. The Project has been, and is being, constructed in a manner consistent with all plans, specifications, engineering reports and facilities plans previously submitted to the TIFIA Lender and the FTA Regional Office and in accordance with the highest standards of the Borrower's industry.
10. The representations and warranties of the Borrower set forth in the TIFIA Loan Agreement and in each other Related Document are true and correct as of the date hereof and as of the Disbursement Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).
11. As of the date hereof and on the Disbursement Date (immediately after giving effect to the above-requested disbursement of TIFIA Loan proceeds), (i) no Event of Default or event of default under any other Related Document and (ii) no event or condition that, with the giving of notice or the passage of time or both, would constitute an Event of Default or event of default under any Related Document, in each case, has occurred and is continuing.
12. No Material Adverse Effect, or any event or condition that could reasonably be expected to result in a Material Adverse Effect, has occurred since July 8, 2020 and is continuing.

13. [A copy of the most recent certificate or report of the Consulting Engineer delivered pursuant to the TIFIA Loan Agreement has been delivered to each of the above named addressees.]⁴
14. A copy of the quarterly construction progress report pursuant to Section 22(b)(i) (*Quarterly Construction Progress Report*) of the TIFIA Loan Agreement for the quarter preceding the date of the applicable Requisition has been delivered to each of the above named addresses.
15. The undersigned acknowledges that if the Borrower makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government in connection with the Project, the Federal Government reserves the right to impose on the Borrower the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l)(1), to the extent the Federal Government deems appropriate.
16. A copy of this requisition has been delivered to each of the above named addressees.
17. The undersigned is duly authorized to execute and deliver this requisition on behalf of the Borrower.

⁴ Include when applicable.

[Add wire instructions for [Borrower].]

Date: _____

SAN LUIS OBISPO REGIONAL TRANSIT
AUTHORITY⁵

By: _____

Name:

Title: _____

⁵ To be executed by the Borrower's Authorized Representative.

APPENDIX TWO TO EXHIBIT D

[APPROVAL/DISAPPROVAL] OF THE TIFIA LENDER (To be delivered to the Borrower)

Requisition Number [●] is [approved in the amount of \$[●]] [approved in part in the amount of \$[●]] [not approved]⁶ by the TIFIA Lender (as defined herein) pursuant to Section 4 (*Disbursement Conditions*) of the TIFIA Loan Agreement, dated as of September [___], 2020, by and between the San Luis Obispo Regional Transit Authority (the “**Borrower**”) and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “**TIFIA Lender**”).

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

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

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

⁶ Attached hereto as Exhibit A are reasons for any partial or full denial of approval.

EXHIBIT A TO APPENDIX TWO TO EXHIBIT D

[Insert reasons for any partial or full denial of approval.]

EXHIBIT E

COMPLIANCE WITH LAWS

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

- (i) The Americans With Disabilities Act of 1990 and implementing regulations (42 U.S.C. § 12101 *et seq.*; 28 C.F.R. Part 34; 29 C.F.R. Part 1630);
- (ii) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d *et seq.*), and USDOT implementing regulations (49 C.F.R. Part 20);
- (iii) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. § 4601 *et seq.*), with the understanding that the requirements of said Act are not applicable with respect to utility relocations except with respect to acquisitions by the Borrower of easements or other real property rights for the relocated facilities;
- (iv) Equal employment opportunity requirements under Executive Order 11246 dated September 24, 1965 (30 C.F.R. 12319), any Executive Order amending such order, and implementing regulations (29 C.F.R. §§ 1625-27, 1630; 28 C.F.R. Part 35; 41 C.F.R. Part 60; and 49 C.F.R. Part 27);
- (v) Restrictions governing the use of federal appropriated funds for lobbying (31 U.S.C. § 1352; 49 C.F.R. Part 20);
- (vi) The Clean Air Act, as amended (42 U.S.C. § 7401 *et seq.*);
- (vii) The National Environmental Policy Act of 1969 (42 U.S.C. § 4321 *et seq.*), including the environmental mitigation requirements and commitments made by the Borrower that result in the FTA Regional Office's approval of the NEPA Determination;
- (viii) The Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 *et seq.*);
- (ix) The Endangered Species Act, 16 U.S.C. § 1531, *et seq.*;
- (x) 23 U.S.C. § 138 and 49 U.S.C. § 303, as applicable;
- (xi) The health and safety requirements set forth in 40 U.S.C. §§ 3701-3702 and implementing regulations (29 C.F.R. Part 1926 and 23 C.F.R. § 635.108, as applicable);
- (xii) The prevailing wage requirements set forth in 40 U.S.C. § 3141 *et seq.*, and implementing regulations (29 C.F.R. Part 5), and, as applicable, 23 U.S.C. § 113 and implementing regulations (23 C.F.R. §§ 635.117(f) and 635.118), and FHWA Form 1273 §§ IV and V for those contracts that involve construction of highway improvements;
- (xiii) The Buy America requirements set forth in 49 U.S.C. § 5323(j) and implementing regulations (49 C.F.R. Part 661);
- (xiv) The requirements of 49 U.S.C. Chapter 53 and 49 C.F.R. Part 600;

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

(xvi) The applicable requirements of 49 C.F.R. Part 25 relating to the Disadvantaged Business Enterprise program.

EXHIBIT F

[Reserved.]

EXHIBIT G

TIFIA DEBT SERVICE

[To be provided on the closing date.]

EXHIBIT H-1

OPINIONS REQUIRED OF COUNSEL TO BORROWER

An opinion of the counsel of the Borrower, dated as of the Effective Date, to the effect that:

(a) the Borrower is duly formed, validly existing, and in good standing under the laws of the jurisdiction of its organization;

(b) the Borrower has all requisite power and authority to conduct its business and to execute and deliver, and to perform its obligations under the Related Documents to which it is a party;

(c) the execution and delivery by the Borrower of, and the performance of its respective obligations under, the Related Documents to which it is a party, have been duly authorized by all necessary organizational or regulatory action;

(d) the Borrower has duly executed and delivered each Related Document to which it is a party and each such Related Document constitutes the legal, valid and binding obligation of such party, enforceable against such party in accordance with their respective terms;

(e) no authorization, consent, or other approval of, or registration, declaration or other filing with any governmental authority of the United States of America or of the State is required on the part of the Borrower for the execution and delivery by such party of, and the performance of such party under, any Related Document to which it is a party other than authorizations, consents, approvals, registrations, declarations and filings that have already been timely obtained or made by the Borrower;

(f) the execution and delivery by the Borrower of, and compliance with the provisions of, the Related Documents to which it is a party in each case do not (i) violate the Organizational Documents of the Borrower, (ii) violate the law of the United States of America or of the State or (iii) conflict with or constitute a breach of or default under any material agreement or other instrument known to such counsel to which the Borrower is a party, or to the best of such counsel's knowledge, after reasonable review, any court order, consent decree, statute, rule, regulation or any other law to which the Borrower is subject;

(g) the Borrower is not an investment company required to register under the Investment Company Act of 1940, as amended; and

(h) to such's counsel's knowledge after due inquiry, there are no actions, suits, proceedings or investigations against the Borrower by or before any court, arbitrator or any other Governmental Authority in connection with the Related Documents or the Project that are pending.

EXHIBIT H-2

OPINIONS REQUIRED FROM BOND COUNSEL TO BORROWER

An opinion of bond counsel to the Borrower, dated as of the Effective Date, to the effect that:

(a) each of the TIFIA Note, this Agreement, the CASA, the SLOCOG Irrevocable Instruction and each Farebox Bank Irrevocable Instruction has been duly authorized, executed, and delivered by the Borrower in accordance with the Organizational Documents of the Borrower and in compliance with all applicable laws;

(b) each TIFIA Loan Document is in full force and effect and constitutes the legal, valid, and binding obligation of the Borrower, enforceable in accordance with its respective terms and conditions;

(c) the TIFIA Note is (i) secured by the Collateral, (ii) enforceable under the laws of the State without any further action by the Borrower or any other Person, and (iii) is a senior obligation of the Borrower and ranks *pari passu* in right of payment and right of security with all Pari Passu Obligations;

(d) the CASA creates the valid and binding assignment and pledge (as applicable) of the Collateral to secure the payment of the principal of, interest on, and other amounts payable in respect of, the TIFIA Note, irrespective of whether any party has notice of the pledge or grant of security interest, as applicable, and without the need for any physical delivery, recordation, filing or further act and no filing, recordation or any other action is necessary to establish and perfect a legal, valid, binding, and enforceable Lien on the Collateral in favor of the Collateral Agent (for the benefit of the Secured Lenders) to the extent contemplated by the TIFIA Loan Documents;

(e) all actions by the Borrower that are required for the use of Revenues as required under the CASA and under the TIFIA Loan Agreement have been duly and lawfully made;

(f) the Borrower has complied with the requirements of State law, including the Authorizing Legislation, to lawfully assign and pledge (as applicable) the Collateral and use the Revenues as required by the terms of the TIFIA Loan Agreement; and

(g) the Borrower is not entitled to claim governmental immunity in any breach of contract action under the TIFIA Loan Agreement or the TIFIA Note or by the Collateral Agent under the CASA.

EXHIBIT I

FORM OF CERTIFICATE OF COLLATERAL AGENT

SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY

**TIFIA Note,
O&M Facility Project
(TIFIA – 2020-1006A)**

The undersigned, U.S. Bank National Association (the “*Collateral Agent*”), by its duly appointed, qualified and acting [____], certifies with respect to the above referenced note (the “*TIFIA Note*”) dated as of September [___], 2020, as follows (capitalized terms used in this Certificate which are not otherwise defined shall have the meanings given to such terms in the CASA (as defined below)):

1. That the Collateral Agent is a national association duly organized and validly existing under the laws of the United States of America and is duly licensed and in good standing under the laws of [_____].
2. All approvals, consents and orders of any governmental authority or agency having jurisdiction in the matter which would constitute a condition precedent to the performance by the Collateral Agent of its duties and obligations under the CASA have been obtained and are in full force and effect.
3. That the CASA was executed by one or more of the persons whose names and offices appear on Annex One attached hereto and made part hereof, that each person was at the time of the execution of the CASA and now is duly appointed, qualified and acting incumbent of his or her respective office, that each such person was authorized to execute the CASA, and that the signature appearing after the name of each such person is a true and correct specimen of that person’s genuine signature.
4. That the undersigned is authorized to act as Collateral Agent, to establish and maintain the Project Accounts and to accept the Revenues that have been or will be conveyed to it under the CASA, has accepted the Revenues so conveyed and in so accepting the Revenues and so acting has not and will not violate any provision of its articles of association or bylaws, any law, regulation or court or administrative order or any agreement or other instrument to which it is a party or by which it may be bound.
5. That attached to this Certificate as Annex Two is a full, true and correct copy of excerpts from resolutions of the board of directors of the Collateral Agent and other applicable documents that evidence the Collateral Agent’s powers to enter into the CASA and to fulfill its obligations under the CASA and the TIFIA Loan Agreement and the authority of the officers referred to above to act on behalf of the Collateral Agent; and that these excerpts and other applicable documents were in effect on the date or dates such officers acted and remain in full force and effect today, and such excerpts and documents have not been amended since the date of the last amendment thereto shown on any such copy, as applicable.

6. That receipt is acknowledged of all instruments, certifications and other documents or confirmations required to be received by the Collateral Agent pursuant to that certain Amended and Restated Collateral Accounts and Security Agreement (the “**CASA**”), dated as of September [___], 2020 by and among the San Luis Obispo Regional Transit Authority (the “**Borrower**”), Pacific Western Bank, the TIFIA Noteholder (as defined below), the Collateral Agent, the Securities Intermediary (as defined therein), and the other secured parties party thereto from time to time.
7. That receipt is also acknowledged of that certain TIFIA Loan Agreement, dated as of September [___], 2020 (the “**TIFIA Loan Agreement**”), between the Borrower and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “**TIFIA Noteholder**”).
8. That the Collateral Agent also accepts its appointment and agrees to perform the duties and responsibilities of Collateral Agent for and in respect of the TIFIA Note as set forth in the CASA and the TIFIA Loan Agreement. In accepting such duties and responsibilities, the Collateral Agent shall be entitled to all of the privileges, immunities, rights and protections set forth in Article II of the CASA.
9. That the TIFIA Debt Service Sub-Account, the TIFIA Debt Service Reserve Sub-Account, and the other Project Accounts to be established on or prior to the date hereof pursuant to the terms of the CASA, have been established as provided in the CASA.

[SIGNATURE PAGE FOLLOWS]

Dated: September [___], 2020

U.S. BANK NATIONAL ASSOCIATION

By: _____
Its:

ANNEX ONE TO EXHIBIT I
OFFICERS OF COLLATERAL AGENT

ANNEX TWO TO EXHIBIT I
RESOLUTIONS OF BOARD OF DIRECTORS OF COLLATERAL AGENT

EXHIBIT J
FORM OF BORROWER'S OFFICER'S CERTIFICATE

Reference is made to that certain TIFIA Loan Agreement, dated as of September [___], 2020 (the "TIFIA Loan Agreement"), by and among the San Luis Obispo Regional Transit Authority (the "Borrower") and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the "TIFIA Lender"). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the TIFIA Loan Agreement.

The undersigned, [___], as Borrower's Authorized Representative, does hereby certify on behalf of the Borrower and not in his/her personal capacity, as of the date hereof:

- (a) pursuant to Section 12(a)(ii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, (i) attached hereto as Exhibit A-1 are complete and fully executed copies of each Other Financing Document, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date, and each such agreement is in full force and effect, and all conditions contained in such documents to the closing of the transactions contemplated thereby have been fulfilled or effectively waived by the TIFIA Lender in its sole discretion and (ii) attached hereto as Exhibit A-2 are complete and fully executed copies of the FTA Master Agreements, together with any amendments, waivers or modifications thereto, in each case that is in effect as of the Effective Date, and each such agreement is in full force and effect;
- (b) pursuant to Section 12(a)(vii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit B is an incumbency certificate that lists all persons, together with their positions and specimen signatures, who are duly authorized by the Borrower to execute the TIFIA Loan Documents, and who have been appointed a Borrower's Authorized Representative in accordance with Section 25 (*Borrower's Authorized Representative*) of the TIFIA Loan Agreement;
- (c) the aggregate of all committed sources of funds shown in the Base Case Financial Model and in the Project Budget to pay Total Project Costs have been fully and completely committed and allocated to the Borrower by the providers thereof and such funds shall be sufficient to pay all Total Project Costs necessary to achieve Substantial Completion;
- (d) pursuant to Section 12(a)(ix) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit C are true, correct and complete copies of each Construction-Related Contract and any related performance security instruments, in each case that has been executed on or prior to the Effective Date (as listed below), and each such Construction-Related Contract is in full force and effect and has not been amended, amended and restated, modified or supplemented except as listed below and attached hereto as part of Exhibit C:

- 1. [*Construction-Related Contracts*]

- (e) the Borrower has obtained all Governmental Approvals necessary to commence construction of the Project and each such Governmental Approval is final and non-appealable and in full force and effect (and is not subject to any notice of violation, breach or revocation);
- (f) pursuant to Section 12(a)(xi) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit D is the Base Case Financial Model, which Base Case Financial Model (i) demonstrates (A) that the Senior Debt Service Coverage Ratio (Farebox Revenues and LTF Funds) for each Calculation Period through the Final Maturity Date is at least equal to 2.00:1.00 and (B) the Senior Debt Service Coverage Ratio (Farebox Revenues) for each Calculation Period through the Final Maturity Date, and (ii) demonstrates that Revenues in each Calculation Period through the Final Maturity Date are projected to be sufficient to satisfy all of the Borrower's funding obligations pursuant to Section 5.03(b) of the CASA;
- (g) pursuant to Section 12(a)(xiii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, the Borrower hereby certifies that (i) the Borrower is authorized, pursuant to the Authorizing Legislation, to pledge, assign, and grant the Liens on the Collateral purported to be pledged, assigned, and granted pursuant to the TIFIA Loan Documents and the Other Financing Documents, without the need for notice to any Person, physical delivery, recordation, filing or further act, and (ii) it has paid, or caused to be paid, all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any TIFIA Loan Document, any Other Financing Document or any instruments, certificates or financing statements in connection with the foregoing;
- (h) pursuant to Section 12(a)(xiv) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, the Borrower hereby certifies that it has (i) complied with all applicable requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*) and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*) and, if previously requested by the TIFIA Lender, has provided sufficient evidence of such compliance and (ii) complied with the requirements of 2 C.F.R. §§ 180.300 and 180.330 and, if previously requested by the TIFIA Lender, has provided sufficient evidence of such compliance;
- (i) pursuant to Section 12(a)(xiv) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit E is a true, correct and complete copy of the final NEPA Determination, which document has not been revoked or amended on or prior to the date hereof;
- (j) pursuant to Section 12(a)(xvi) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, (i) the Borrower's Federal Employer Identification Number is [_____] and attached hereto as Exhibit F-1 is evidence thereof, (ii) the Borrower's Data Universal Numbering System number is [____], and (iii) the Borrower has registered with, and obtained confirmation of active registration status from, the federal System for Award Management (www.SAM.gov), and attached hereto as Exhibit F-2 is evidence of each of (ii) and (iii);

- (k) pursuant to Section 12(a)(xvii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit G are true, correct and complete copies of certificates of insurance or other acceptable documentation that demonstrate satisfaction of the insurance requirements of Section 12(a)(xvii) of the TIFIA Loan Agreement;
- (l) pursuant to Section 12(a)(xviii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as (i) Exhibit H-1 is a copy of the Borrower's Organizational Documents and the Authorizing Legislation, each as in effect on the Effective Date (and certified by the Secretary of State of the State, to the extent applicable), which Organizational Documents and Authorizing Legislation are each in full force and effect and have not been amended since the date of the last amendment thereto shown in Exhibit H-1, (ii) Exhibit H-2 is a copy of all resolutions authorizing the Borrower to execute and deliver, and to perform its respective obligations under, the TIFIA Loan Documents to which it is a party, and such resolutions have not been subsequently modified, rescinded or amended, are in full force and effect in the form adopted, and are the only resolutions adopted by the Borrower relating to the matters described therein, and (iii) Exhibit H-3 is a copy of such further instruments and documents as are necessary, appropriate or advisable to effectuate the foregoing resolutions and to consummate and implement the transactions contemplated by such resolutions and the TIFIA Loan Documents;
- (m) the representations and warranties of the Borrower set forth in the TIFIA Loan Agreement and in each other Related Document to which the Borrower is a party are true and correct on and as of the date hereof, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date;
- (n) (i) the maximum principal amount of the TIFIA Loan, together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs and (ii) as required pursuant to § 603(b)(9) of the Act, the total federal assistance provided to the Project, including the maximum principal amount of the TIFIA Loan, does not exceed eighty percent (80%) of Eligible Project Costs; and
- (o) pursuant to Section 12(a)(i) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit I are complete and fully executed copies of the SLOCOG Irrevocable Instruction and each Farebox Bank Irrevocable Instruction, and each such instruction is in full force and effect.

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

[_____]

By: _____

Name:

Title: Authorized Person ⁷

⁷ To be executed by Borrower's Authorized Representative.

[Signature Page to Omnibus Certificate of the Borrower]

Exhibit J-4

EXHIBIT B TO EXHIBIT J

INCUMBENCY CERTIFICATE

The undersigned certifies that he/she is the [Secretary] of the San Luis Obispo Regional Transit Authority, a joint powers authority created under the laws of the State of California, (the “Borrower”), and as such he/she is authorized to execute this certificate and further certifies that the following persons have been elected or appointed, are qualified, and are now acting as officers or authorized persons of the Borrower in the capacity or capacities indicated below, and that the signatures set forth opposite their respective names are their true and genuine signatures. He/She further certifies that any of the officers listed below is authorized to sign agreements and give written instructions with regard to any matters pertaining to the TIFIA Loan Documents as the Borrower’s Authorized Representative (each as defined in that certain TIFIA Loan Agreement, dated as of the date hereof, between the Borrower and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau):

<u>Name</u>	<u>Title</u>	<u>Signature</u>
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this _____ day of [____], 2020.

[_____]

By: _____
Name:
Title:

EXHIBIT K
FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION

[Letterhead of Borrower]

[Date]

Build America Bureau

United States Department of Transportation

Room W12-464
1200 New Jersey Avenue, SE
Washington, D.C. 20590
Attention: Director, Office of Credit Programs

Project: San Luis Obispo Regional Transit Authority O&M Facility Project (TIFIA – 2020-1006A)

Dear Director:

This Notice is provided pursuant to Section 15(g)(i)(A) (*Substantial Completion*) of that certain TIFIA Loan Agreement (the “**TIFIA Loan Agreement**”), dated as of September [___], 2020, by and between the San Luis Obispo Regional Transit Authority (the “**Borrower**”) and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “**TIFIA Lender**”).

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

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

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

[Borrower's Authorized Representative]

Name:

Title:

EXHIBIT L

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

The undersigned, on behalf of the SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY (the “**Borrower**”), hereby certifies, to the best of his or her knowledge and belief, that:

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

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

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

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

Unless otherwise defined herein, all capitalized terms in this certificate have the meanings assigned to those terms in that certain TIFIA Loan Agreement, dated as of September [___], 2020, by and between the Borrower and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “**TIFIA Lender**”).

Dated: September [___], 2020

**SAN LUIS OBISPO REGIONAL TRANSIT
AUTHORITY⁸**

⁸ To be executed by Borrower’s Authorized Representative.

By: _____
Name:
Title:

EXHIBIT M

FORM OF SLOCOG IRREVOCABLE INSTRUCTION

[To be provided.]

EXHIBIT N

FORM OF FAREBOX BANK IRREVOCABLE INSTRUCTION

[To be provided.]

Attachment C

**AMENDED AND RESTATED COLLATERAL ACCOUNTS AND SECURITY
AGREEMENT**

Dated as of September [___], 2020

by and among

SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY

as the Borrower

PACIFIC WESTERN BANK

as PWB

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

as the TIFIA Lender

and

U.S. BANK NATIONAL ASSOCIATION

as the Collateral Agent and the Securities Intermediary

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AMENDED AND RESTATED COLLATERAL ACCOUNTS AND SECURITY AGREEMENT

This AMENDED AND RESTATED COLLATERAL ACCOUNTS AND SECURITY AGREEMENT (including any supplements and amendments hereafter, this "**Agreement**"), dated as of September [], 2020 is made by and among San Luis Obispo Regional Transit Authority, a California joint powers authority (the "**Borrower**"), Pacific Western Bank, a California state-chartered bank, as lender under the PWB Loan Agreement (defined below) (including its successors and assigns, "**PWB**"), the United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau, in its capacity as lender under the TIFIA Loan Agreement (defined below) (including its successors and assigns, the "**TIFIA Lender**"), U.S. Bank National Association, a national banking association, in its capacity as collateral agent on behalf of itself and the other Secured Parties (in such capacity (including its successors and assigns), the "**Collateral Agent**"), U.S. Bank National Association, a national banking association, in its capacity as Securities Intermediary (as defined herein) and each other Secured Party that accedes to this Agreement in accordance with Article IX hereto. All capitalized terms used herein that are defined in the UCC (as defined in Exhibit A hereto) are used herein as defined therein; all other capitalized terms used herein but not otherwise defined herein shall have the respective meanings given to such terms in Exhibit A hereto. The rules of interpretation set forth in Exhibit A hereto shall apply to this Agreement.

RECITALS

A. The Borrower deems it necessary and appropriate to provide for the financing of a transit vehicle maintenance and administration facility in the City of San Luis Obispo, California (the "**Project**").

B. Pursuant to that certain Credit Agreement, dated as of July 21, 2020 (the "**PWB Loan Agreement**") by and between the Borrower and PWB, PWB has agreed to make a loan (the "**PWB Loan**") to the Borrower, the proceeds of which will be used to finance a portion of the costs of the Project.

C. Pursuant to that certain TIFIA Loan Agreement, dated as of the date hereof (the "**TIFIA Loan Agreement**"), between the Borrower and the TIFIA Lender, the TIFIA Lender has agreed to make a loan (the "**TIFIA Loan**") to the Borrower on the terms and subject to the conditions set forth therein, the proceeds of which will be used to finance a portion of the costs of the Project.

D. PWB and the TIFIA Lender wish to appoint U.S. Bank National Association, a national banking association, as Collateral Agent and Securities Intermediary under this Agreement, and the Collateral Agent wishes to set forth the terms on which it shall accept such appointment and shall undertake to perform certain duties on behalf of all Secured Parties with respect thereto.

E. In consideration of the extensions of credit under the PWB Loan Agreement and under the TIFIA Loan Agreement, and other accommodations of PWB set forth in the PWB Loan Agreement and of the TIFIA Lender under the TIFIA Loan Agreement, respectively, the Borrower has agreed to secure its obligations under the Finance Documents as set forth herein.

F. In connection with the closing of the PWB Loan, the Borrower, PWB, the Collateral Agent, and the Securities Intermediary entered into that certain Collateral Accounts and Security Agreement, dated as of July 21, 2020 (as amended, modified or supplemented prior to the date hereof, the "**Original CASA**").

G. In order to facilitate the closing of the TIFIA Loan, the Borrower, PWB, the Collateral Agent, and the Securities Intermediary have agreed to amend and restate the Original CASA in its entirety, in order to, inter alia, add the TIFIA Lender as a party.

H. As further described in, and subject to Section 10.12, it is the intention of each of the parties hereto that this Agreement (including all Exhibits attached hereto) amend, restate, replace and supersede in its entirety the Original CASA (including all Exhibits attached thereto).

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE I GRANT OF LIEN ON COLLATERAL

Section 1.01 Grant of Lien. In order to secure the prompt, irrevocable and indefeasible payment and performance in full when due of the Secured Obligations (whether now existing or hereafter arising and howsoever evidenced, and whether at stated maturity, upon acceleration, on any optional or mandatory prepayment date, redemption date or otherwise), (a) the Borrower hereby pledges and grants to the Collateral Agent, for the benefit of the Secured Parties, a first priority and continuing Lien on and security interest in all right, title and interest of the Borrower, whether now owned or hereafter acquired or arising, in and to all Farebox Revenues, whether now earned or hereafter acquired and (b) the Borrower hereby grants to the Collateral Agent, for the benefit of the Secured Parties as provided herein, a first priority and continuing Lien on security interest in all right, title and interest of the Borrower, whether now owned or hereafter acquired or arising, in and to the Project Accounts, all security entitlements carried therein, and all cash, cash equivalents, Permitted Investments, instruments, Securities and other funds or amounts on deposit in the Project Accounts.

Section 1.02 Priority of Liens. The Lien and security interests granted pursuant to Section 1.01 shall be prior in right to any other pledge, Lien or security interest created by the Borrower in any Collateral and shall have priority over any other claims against the Collateral.

Section 1.03 Preservation of Liens. The Borrower shall promptly take any and all steps that may be necessary, or that the Collateral Agent may reasonably request (acting on the written instructions of the Secured Parties) to maintain the validity, perfection and first priority position of the Lien on the Collateral to enable the Collateral Agent to exercise and enforce its rights, remedies, powers and privileges under this Agreement with respect to such Liens.

Section 1.04 Preservation of Collateral. The Borrower shall defend the right, title and interest of the Borrower in and to the Collateral against the claims of any other Person.

ARTICLE II COLLATERAL AGENT

Section 2.01 Appointment. U.S. Bank National Association is hereby appointed as collateral agent for the benefit of the Secured Parties with respect to the Liens in the Collateral and the rights and remedies granted pursuant to the Security Documents. The Collateral Agent hereby accepts such appointment and agrees to act as Collateral Agent in the manner contemplated herein and in the Security Documents. The Collateral Agent is hereby authorized and directed to act in strict accordance with the terms of this Agreement (notwithstanding any contrary provision in any other Security Document) with respect to Enforcement Actions or the application of any Collateral or the Proceeds thereof. The Collateral

Agent hereby accepts and agrees to, and the Borrower hereby acknowledges and consents to, the foregoing authorization and direction. Any party that shall become a Secured Party after the date hereof pursuant to the terms hereof shall be deemed to have so acknowledged and consented to such appointment, authorization and direction of the Collateral Agent by the Secured Parties set forth in this Section 2.01.

Section 2.02 Duties and Responsibilities.

(a) Subject to the terms hereof, the Collateral Agent agrees, for the benefit of the Secured Parties, to administer and enforce this Agreement and any other Security Documents to which it is a party as Collateral Agent, and, among other remedies, to foreclose upon, collect and dispose of the Collateral and to apply the Proceeds therefrom, for the benefit of the Secured Parties, as provided herein, and otherwise to perform its duties and obligations as the Collateral Agent hereunder and thereunder in accordance with the terms hereof and thereof; provided, however, that the Collateral Agent shall have no duties or responsibilities except those expressly set forth herein or in any other Security Documents to which it is a party, and no implied covenants or obligations, fiduciary or otherwise, shall be read into this Agreement or any such other Security Documents against the Collateral Agent.

(b) Notwithstanding anything contained herein to the contrary, the Collateral Agent shall not be required to exercise any discretion or take any discretionary action but shall only be required to act or refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the written instructions of the Required Creditors, and such instructions shall be binding upon the Collateral Agent and each of the Secured Parties; provided, however, that the written instructions of all of the Secured Parties shall be required where expressly provided for herein; provided, further, that the Collateral Agent shall not be required to take any action which is contrary to any provision hereof or of the other Finance Documents to which the Collateral Agent is a party or applicable Law.

(c) Notwithstanding any other provision of the Security Documents, in no event shall the Collateral Agent be required to foreclose on, or take possession of, any Collateral, if, in the reasonable judgment of the Collateral Agent, such action would be in violation of any applicable Law, rule or regulation pertaining thereto, or if the Collateral Agent reasonably believes that such action would result in the incurrence of liability by the Collateral Agent for which it is not fully indemnified by the Borrower pursuant to Sections 2.10 and 7.02 hereof.

(d) The Collateral Agent shall not be responsible to the other Secured Parties for (i) any recitals, statements, representations or warranties by the Borrower or any of the Secured Parties (other than its own) contained in this Agreement or the other Finance Documents, or any certificate or other document delivered by the Borrower or any of the other Secured Parties thereunder, (ii) the value, validity, effectiveness, genuineness, enforceability (other than as to the Collateral Agent with respect to such documents to which the Collateral Agent is a party) or sufficiency of this Agreement or any other document referred to or provided for herein or therein or of the Collateral held by the Collateral Agent under the Security Documents, (iii) the performance or observance by the Borrower or any of the Secured Parties (other than as to itself) of any of their respective agreements contained herein or therein, nor shall the Collateral Agent be liable to the other Secured Parties because of the invalidity or unenforceability of any provisions of this Agreement (other than as to itself) or (iv) the validity, perfection, priority or enforceability of the Liens on any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder (except to the extent such action or omission constitutes gross negligence, bad faith or willful misconduct on the part of the Collateral Agent), the validity of the title of the Borrower to the Collateral owned by the Borrower, insuring the Collateral or the payment of Taxes, charges, assessments on the Collateral or otherwise as to the maintenance of the Collateral.

(e) Except when a mandatory action is required by the Collateral Agent under the Security Documents, the Collateral Agent may at any time request written instructions from the Required Creditors as to a course of action to be taken by it hereunder and under any of the Security Documents or in connection herewith and therewith or any other matters relating hereto and thereto. The Required Creditors shall promptly reply to any such request and the Collateral Agent shall be fully justified in failing or refusing to take any such action if it shall not have received such written instruction of the Required Creditors. This provision is intended solely for the benefit of the Collateral Agent and its successors and permitted assigns and is not intended to and will not entitle the other parties hereto to any defense, claim or counterclaim, or confer any rights or benefits on any other party hereto.

(f) None of the Collateral Agent, the Securities Intermediary or any of their directors, officers, employees or agents shall be liable or responsible to the other Secured Parties for any action taken or omitted to be taken by it or them hereunder or in connection herewith, except for its or their own gross negligence, bad faith or willful misconduct.

Section 2.03 Authorization. The Collateral Agent is hereby authorized to (a) execute, deliver, and perform in such capacity under this Agreement and each other Finance Document to which the Collateral Agent is or is intended to be a party, (b) exercise and enforce any and all rights, powers and remedies provided to the Collateral Agent under this Agreement, any other Finance Document to which the Collateral Agent is a party or is a third party beneficiary, any applicable Law, or any other document, instrument, or agreement to which the Collateral Agent is a party or a third party beneficiary, in each case in accordance with the terms thereof, and (c) take any other action under and in accordance with this Agreement and any other Finance Document to which the Collateral Agent is a party reasonably incidental to the foregoing or in order to facilitate the issuance of new Secured Obligations permitted under, and in accordance with, each of the Finance Documents, including executing documents to which it is intended to be a party, and amendments, modifications and supplements to the Finance Documents to which it is a party, in each case, that do not adversely affect the rights of the existing Secured Creditors or the Liens on the Collateral held for the benefit of the existing Secured Creditors. Notwithstanding the foregoing, the Collateral Agent shall not commence an Enforcement Action except in accordance with written instructions given by the Required Creditors (acting in accordance with the terms of this Agreement; provided, that if the Collateral Agent is prohibited by any court order or applicable Law from commencing any Enforcement Action due to a lack of consent or direction of or from the Required Creditors, the Collateral Agent shall seek the requisite authority from, or joinder of, the Required Creditors to commence such Enforcement Action but shall not be obligated to commence such Enforcement Action until such authority is obtained. All decisions with respect to the type of Enforcement Action which is to be commenced shall be made by, and all actions with respect to prosecution and settlement of such Enforcement Action shall require the written consent of, the Required Creditors (acting in accordance with the terms of this Agreement), and the Collateral Agent shall not be required to take any Enforcement Action in the absence of any such written consent. The Collateral Agent shall pursue, and use all commercially reasonable efforts in connection with, the prosecution of any Enforcement Action that the Collateral Agent is so authorized or directed to initiate pursuant to this Agreement, subject to the terms of this Agreement. The Collateral Agent shall deliver copies of all notices it receives on behalf of any of the Secured Parties or in connection with the Finance Documents or the Project to each Secured Creditor promptly upon receipt.

Section 2.04 Administrative Actions. The Collateral Agent shall take such action as it deems necessary or advisable to perfect or continue the perfection of the Liens on the Collateral held for the benefit of the other Secured Parties, subject to the limitations set forth herein, as instructed by the Secured Parties. The Collateral Agent shall not release any of the Collateral held by the Collateral Agent for the benefit of such Secured Parties, except: (a) upon payment in full in cash of all of the Secured Obligations; or (b) with respect to amounts on deposit in any sub-account of the Pari Passu Debt Service Account or the Pari Passu Debt Service Reserve Account, upon the written direction of the Secured Party for which such sub-account

has been established. Upon the written request by the Collateral Agent or the Borrower at any time, the Required Creditors (acting in accordance with the terms of this Agreement) will confirm in writing the Collateral Agent's authority to release particular types or items of Collateral pursuant to clause (c) of this Section. At the Borrower's reasonable expense, the Collateral Agent will take all actions necessary, including executing documents to which it is intended to be a party, and amendments, modifications and supplements to such documents to which it is a party, in each case, to preserve, protect and accept additional Collateral for the benefit of the Secured Parties.

Section 2.05 Determination of Amounts of Secured Obligations. Upon the written request of the Collateral Agent or the Borrower, the Secured Creditors shall promptly deliver to the Collateral Agent (with a copy to each other Secured Party that is a party hereto and the Borrower) a certificate, dated the date of delivery thereof and signed by each such Secured Creditor, as to (a) the identity and address of any Secured Creditor (or representative thereof), (b) the principal amount of the Secured Obligations then outstanding held by such Secured Creditor (provided, with respect to PWB, such amount shall be the aggregate principal amount of the then outstanding PWB Loan and with respect to the TIFIA Lender, such amount shall be equal to the aggregate principal amount of the then outstanding TIFIA Loan), (c) in the case of any such certificate being delivered in contemplation of the application of amounts received by the Collateral Agent in respect of the Collateral pursuant to Article VI hereof, the amount of interest on the Secured Obligations owing and any other amounts in respect of the Secured Obligations owing to such Secured Party, as the case may be (in the case of any such other amounts, accompanied by appropriate evidence thereof), and/or (d) in the event that any of the Secured Obligations shall have become or been declared to be due and payable, (whether at stated maturity, by required prepayment, redemption, declaration, acceleration, demand or otherwise), the principal amount of such Secured Obligations then due and payable to such Secured Party, as the case may be (to the extent that such information is different from that provided in clause (b) above); provided that each such Secured Party shall have not less than fifteen (15) days from receipt of such copy of such certificate to review any such certificate and provide any objections with respect thereto to the Collateral Agent. Absent receipt of notice of such objections from a Secured Party, the Collateral Agent shall be entitled to rely on certifications received by it in accordance with the above for the purposes of determining the amount of the Secured Obligations then outstanding held by such Secured Party; provided, that in the absence of the Collateral Agent's receipt of any certification requested by it pursuant to this sentence, the Collateral Agent shall be entitled (but not obligated) to take such action if the Collateral Agent shall have sufficient knowledge (acting reasonably) to make any determination required to be made in connection with such action.

Section 2.06 Employment of Agents. The Collateral Agent may, at the Borrower's reasonable cost and expense, employ or retain such counsel, accountants, appraisers or other experts or advisers as it may reasonably require for the purpose of determining and discharging its rights and duties hereunder and, in the absence of the Collateral Agent's gross negligence, bad faith or willful misconduct in employing or retaining, or relying on, any such counsel, accountants, appraisers, experts or advisors, may act and rely and shall be fully protected in acting and relying in good faith on the opinion or advice of or information obtained from any counsel, accountant, appraiser or other expert or advisor, whether retained or employed by the Borrower or by the Collateral Agent, in relation to any matter arising in the administration hereof or in the determination or discharging of its rights and duties hereunder, and shall not be responsible to Borrower for any act or omission on the part of any of them or for acting or relying in good faith on the opinion, advice or information obtained from such expert or advisor; provided, however, that except in connection with actions taken by the Collateral Agent in connection with the exercise of its rights under Section 10.09(b) or in the case of an actual or asserted Event of Default under the Finance Documents that has occurred and is continuing, the Collateral Agent shall not be entitled to incur any costs or expenses of the scope contemplated in this Section 2.06 in excess of \$2,000 without the prior approval of the Borrower. In addition, the Collateral Agent shall not be liable to Borrower for any acts or omissions of its nominees, correspondents, designees, agents, subagents or subcustodians as it may reasonably require for the purpose

of discharging its ministerial duties hereunder, and the Collateral Agent shall not be liable to Borrower hereunder in excess of its recourse under contract or law with regards to such third party nominees, correspondents, designees, agents, subagents or subcustodians for any acts or omissions of such persons except to the extent of its gross negligence, bad faith or willful misconduct in nominating, appointing, directing or instructing such Persons and so long as such Persons are permitted to act hereunder.

Section 2.07 Reliance of Collateral Agent. In connection with the performance of its duties hereunder, the Collateral Agent shall be entitled to rely conclusively upon, and shall be fully protected in acting or refraining from acting in accordance with, any written certification, notice, instrument, opinion, request, consent, order, approval, direction or other written communication (including any thereof by facsimile or electronic communication) of or from the Required Creditors (including, but not limited to, instructions under Section 2.02) or of or from any other Secured Party that is a party hereto (to the extent not in violation of the terms hereof or of the other Finance Documents), which the Collateral Agent in good faith reasonably believes to be genuine and to have been signed or sent by or on behalf of the proper Person or Persons, and it shall be entitled to rely conclusively upon the due execution, validity and effectiveness, and the truth, correctness and acceptability of, any provisions contained therein. The Collateral Agent shall not have any responsibility hereunder to make any investigation into the facts or matters stated in any notice, certificate, instrument, demand, request, direction, instruction, or other communication furnished to it. Whenever this Agreement (or any other Finance Document) specifies that any instruction, direction or consent by the Required Creditors is to be given in accordance with the terms of this Agreement, the Collateral Agent shall be entitled to rely upon any such instruction, direction or consent by the Required Creditors (which instruction, direction or consent need not state that it is given in accordance with the terms of this Agreement), and the Collateral Agent may presume without investigation that any such instruction, direction or consent by the Required Creditors has been given in accordance with the terms of this Agreement and the other applicable Finance Documents. The Required Creditors shall give any instruction, direction or consent required to be given by it to the Collateral Agent in accordance with the terms of this Agreement.

Section 2.08 Non-Reliance on Collateral Agent. Each Secured Party that is a party hereto hereby expressly acknowledges that neither the Collateral Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates has made any representations or warranties to it and that no act by the Collateral Agent (other than any explicit written representation or warranty made by the Collateral Agent) hereafter taken shall be deemed to constitute any representation or warranty by the Collateral Agent to such Secured Party or the Borrower. Except for any notices, reports and other documents expressly required to be maintained by the Collateral Agent or furnished to the other Secured Parties or to any Farebox Bank by the Collateral Agent hereunder, the Collateral Agent shall not have any duty or responsibility to provide any other Secured Party with any credit or other information concerning the business, operations, property, condition (financial or other), prospects or creditworthiness of the Borrower. Except to the extent it has made or renewed any Secured Obligations as permitted under Section 2.09, U.S. Bank National Association is entering into this Agreement and any other Security Documents solely in its capacity as Collateral Agent and as Securities Intermediary and not in its individual capacity and in no case shall U.S. Bank National Association (or any Person acting as successor Collateral Agent under this Agreement) be personally liable for or on account of any of the statements, representations, warranties, covenants or obligations of the Borrower (as applicable) hereunder or thereunder, all such liability, if any, being expressly waived by the parties hereto and any Person claiming by, through or under such party. This Section 2.08 shall survive the payment of all Secured Obligations. Except as provided in Section 2.12(c) hereof, the Collateral Agent shall have no obligation and shall incur no obligation for its failure to monitor or verify the filing of financing statements (or amendments or continuations thereto) and the information contained therein.

Section 2.09 Collateral Agent in Individual Capacity. The Collateral Agent and its Affiliates may make loans to, issue letters of credit in favor of, accept deposits from and generally engage in any kind of business with the Borrower and its Affiliates as though the Collateral Agent were not the Collateral Agent hereunder and under any Security Documents. With respect to Secured Obligations made or renewed by it and any Additional Pari Passu Debt or Notes issued to it, if any, the Collateral Agent shall have the same rights and powers under this Agreement and the Finance Documents as any other Secured Party and may exercise the same as though it were not the Collateral Agent, and the term "Secured Party" shall include the Collateral Agent in its individual capacity.

Section 2.10 Collateral Agent Under No Obligation. None of the provisions of this Agreement or any other Security Documents shall be construed to require the Collateral Agent to expend or risk its own funds or otherwise to incur any personal liability, financial or otherwise, in the performance of any of its duties hereunder or thereunder. The Collateral Agent shall be under no obligation to exercise any of the rights or powers vested in it by the Security Documents unless the Collateral Agent shall have been offered and accepted security or indemnity from the Borrower reasonably satisfactory to it against the costs, expenses and liabilities which might be incurred by it in exercising such rights or powers (including interest thereon from the time incurred until reimbursed); provided, however, that for purposes of this Section 2.10, the indemnification provided to the Collateral Agent by the Borrower pursuant to Section 7.02 is hereby acknowledged as acceptable.

Section 2.11 Resignation and Removal; Successor Collateral Agent; Individual Collateral Agent.

(a) Subject to the appointment and acceptance of a successor Collateral Agent as provided below, the Collateral Agent may resign at any time by giving at least thirty (30) days' prior written notice thereof to the other Secured Parties that are parties hereto and the Borrower, and the Collateral Agent may be removed at any time with or without cause by the Required Creditors (acting in accordance with the terms of this Agreement and the other applicable Finance Documents) upon thirty (30) days' written notice thereof to the Collateral Agent, the other Secured Parties that are parties and the Borrower unless a shorter period of notice is required by the Secured Parties. Upon any such resignation or removal, the Required Creditors (acting in accordance with the terms of this Agreement) shall have the right to appoint a successor Collateral Agent which, so long as no Event of Default has occurred and is continuing, shall be reasonably acceptable to the Borrower.

(b) If no successor Collateral Agent shall have been so appointed by the Required Creditors within thirty (30) days after the retiring Collateral Agent's giving of notice of resignation or the removal of the retiring Collateral Agent by the Required Creditors in accordance with clause (a) above, then the retiring Collateral Agent may, on behalf of the Secured Parties, apply, at the reasonable expense of the Borrower, to a court of competent jurisdiction (with notice to each Secured Creditor and the Borrower) for the appointment of a successor Collateral Agent. In all such cases, the successor Collateral Agent shall (i) be a bank organized under the laws of the United States of America or any state thereof that has an office in the State of New York and which agrees to administer the Collateral in accordance with the terms hereof and of any other Security Documents and the unsecured long-term debt of which shall be rated no lower than 'A', 'A2' or the equivalent rating from each Nationally Recognized Rating Agency that provides a rating on such bank's unsecured long-term debt, (ii) have a total capital stock and unimpaired surplus of not less than \$500,000,000, and (iii) so long as no Event of Default has occurred and is continuing, be reasonably acceptable to the Borrower. If at any time the Collateral Agent shall fail to meet such requirements and qualifications set forth in the sentence above, the Collateral Agent shall promptly provide notice of such failure to the Borrower and the other Secured Parties. U.S. Bank National Association hereby represents and confirms that it meets the qualifications provided in the second sentence of this clause (b). Upon the acceptance of any appointment as Collateral Agent hereunder by a successor

Collateral Agent, such successor Collateral Agent shall thereupon succeed to and become vested with all the rights, powers, privileges, obligations and duties of the retiring Collateral Agent, and the retiring Collateral Agent shall be discharged from its duties and responsibilities hereunder arising thereafter. After any retiring Collateral Agent's resignation or removal hereunder as Collateral Agent, the provisions of this Agreement (including Sections 2.14, 7.01 and 7.02) shall continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as the Collateral Agent. For the avoidance of doubt, no resignation or removal pursuant to this Section 2.11 shall be effective until (i) a successor for the Collateral Agent has been appointed in accordance with (and subject to) the provisions of this Section 2.11, (ii) the resigning or removed Collateral Agent has transferred to its successor all of its rights and obligations in its capacity as the Collateral Agent under this Agreement and the other Finance Documents, (iii) the resigning or removed Collateral Agent has assigned, transferred or delivered, as applicable, all Collateral held by it to the successor Collateral Agent, together with all records, instruments and other documents necessary or appropriate to execute such assignment, transfer or delivery to the successor Collateral Agent, (iv) the resigning or removed Collateral Agent has executed and delivered to the successor Collateral Agent the amendments to the applicable financing statements, and has taken other actions as may be necessary or appropriate, in connection with the assignment, transfer or delivery to the successor Collateral Agent of the Liens created under the Security Documents, and (v) the successor Collateral Agent has executed and delivered an agreement to be bound by the terms of this Agreement and to perform all duties required of the Collateral Agent hereunder and thereunder.

(c) If at any time the Collateral Agent shall reasonably determine that it shall be necessary or appropriate under applicable Law or in order to permit action to be taken hereunder, the Collateral Agent and the Borrower (with written notice to the other Secured Parties that are parties hereto) shall execute and deliver all instruments necessary to appoint any Person as a Co-Collateral Agent ("**Co-Collateral Agent**"), with respect to all or any portion of the Collateral, in any case with such powers, rights, duties, obligations and immunities conferred upon the Collateral Agent hereunder as may be specified therein (but not in excess of or different from those set forth herein for the Collateral Agent). If the Borrower shall refuse to join in the execution of any such instrument within ten (10) Business Days of any written request therefor by the Collateral Agent or if any Event of Default shall have occurred and is continuing, the Collateral Agent may act under the foregoing provisions without the concurrence of the Borrower; and the Borrower hereby irrevocably makes, constitutes and appoints the Collateral Agent as the agent and attorney-in-fact for the same to act for it under the provisions of (and in accordance with) this paragraph.

Each Co-Collateral Agent shall, to the extent permitted by Law, be appointed and act subject to the following provisions and conditions:

- (i) all rights and powers, conferred or imposed upon the Collateral Agent may be conferred or imposed upon and may be exercised or performed by such Co-Collateral Agent as specified in the instrument appointing such Co-Collateral Agent; and
- (ii) no Collateral Agent shall be personally liable by reason of any act or omission of any other Collateral Agent or Co-Collateral Agent hereunder.

A Co-Collateral Agent shall not be required to meet the conditions of eligibility under Section 2.11(b) if such Co-Collateral Agent holds only an insubstantial amount of the Collateral, as determined by the Required Creditors (acting in accordance with the terms of this Agreement and the other applicable Finance Documents).

Section 2.12 Books and Records; Reports.

(a) The Collateral Agent and, if appointed, a Co-Collateral Agent, shall at all times keep, or cause to be kept, proper books of record and accounts in which complete and accurate entries shall be made of all transactions relating to the Secured Obligations, Revenues and all Project Accounts established pursuant to this Agreement. Such books of record and accounts shall be available for inspection by the Secured Parties that are parties hereto, or their respective agents or representatives duly authorized in writing, at reasonable hours and under reasonable circumstances and upon reasonable prior written request.

(b) Within fifteen (15) days after the end of each month, the Collateral Agent shall furnish to the other Secured Parties that are parties hereto or relevant representatives thereof and the Borrower, a report (which may be in the form of the customary account statements of the Collateral Agent) that shall set forth in reasonable detail the account balances, receipts, disbursements, transfers, investment transactions, and accruals for each of the Project Accounts during such month. If available from the Collateral Agent, the Collateral Agent shall provide electronic statements upon request of the Borrower.

(c) Within sixty (60) days after the end of each calendar year, the Collateral Agent shall furnish to the other Secured Parties that are parties hereto or relevant representatives thereof and the Borrower, a report (which may be in the form of the customary account statements of the Collateral Agent) setting forth in reasonable detail the account balances, receipts, disbursements, transfers, investment transactions, and accruals for each of the Project Accounts during the preceding year. The Collateral Agent shall provide electronic statements upon request of the Borrower.

(d) The Collateral Agent shall maintain records of all receipts, disbursements, and investments of funds with respect to the Project Accounts until the fifth (5th) anniversary of the date on which all of the Secured Obligations shall have been paid in full.

(e) On or prior to the date that is six (6) months prior to the expiration date of any UCC financing statement that has been filed with respect to the Collateral for which Collateral Agent is secured party and is known to the Collateral Agent, the Collateral Agent shall provide the other Secured Parties that are parties hereto or relevant representatives thereof and the Borrower notice of the impending expiration date. The Borrower shall provide the Collateral Agent and the other Secured Parties that are parties hereto or relevant representatives thereof evidence that the required continuation statement has been properly and timely filed promptly following such filing. This clause (e) is not intended to modify the responsibility of, the liability of, or provide a defense to, the Borrower under any Finance Document with respect to the filing of continuation statements or the maintenance of the Collateral Agent's perfected security interest in the Collateral with the priority contemplated by the Finance Documents.

Section 2.13 No Consequential Damages. In no event shall the Collateral Agent or the Securities Intermediary be liable to Borrower or the other Secured Parties under or in connection with the Finance Documents for indirect, special, incidental, punitive or consequential losses or damages of any kind whatsoever, including but not limited to lost profits, whether or not foreseeable, even if the Collateral Agent and/or Securities Intermediary has been advised of the possibility thereof and regardless of the form of action in which such damages are sought.

Section 2.14 Authorization of Collateral Agent to Recover Compensation, Fees and Expenses. To the extent that the Borrower fails to pay any amount required to be paid by it to the Collateral Agent pursuant to Sections 7.01 and 7.02 hereof and after the delivery of written notice of such failure to the Borrower, the Collateral Agent is hereby authorized to transfer funds to reimburse itself for such amounts out of the Revenue Account. The provisions of this Section 2.14 shall survive the termination of the Finance Documents and the resignation or removal of the Collateral Agent until the amounts required to be paid to the applicable Collateral Agent pursuant to Sections 7.01 and 7.02 hereof is paid in full.

Section 2.15 Force Majeure. In no event shall the Collateral Agent be responsible or liable to the Borrower or the other Secured Parties for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, epidemics, pandemics, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services not within the Collateral Agent's control, the unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility; it being understood that the Collateral Agent shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 2.16 Additional Protections. The rights, privileges, protections and benefits given to the Collateral Agent or the Securities Intermediary, as the case may be, including its rights to be indemnified, are extended to, and shall be enforceable by, each agent, custodian and other Person employed to act hereunder by the Collateral Agent or the Securities Intermediary, as the case may be, including any Co-Collateral Agent, to the extent permitted to be so employed in accordance with the terms hereof; provided, however, that all such rights, privileges, protections and benefits are subject to the same limits and conditions imposed upon the Collateral Agent or the Securities Intermediary, as the case may be.

Section 2.17 [Reserved].

Section 2.18 Merger of the Collateral Agent. Any corporation or company into which the Collateral Agent shall be merged, or with which it shall be consolidated, or any corporation or company resulting from any merger or consolidation to which the Collateral Agent shall be a party, shall be the Collateral Agent under this Agreement, without the execution or filing of any paper or any further act on the part of the parties hereto, provided, that such resulting corporation or company shall meet the requirements of Section 2.11(b). Upon the occurrence of any such event the Collateral Agent shall promptly provide written notice thereof to the other Secured Parties that are parties hereto or relevant representatives thereof and the Borrower.

Section 2.19 Transfer to an Affiliate. In addition to any rights it may have under Section 2.18 hereof or under any other provision of this Agreement or any other Security Document, each of the Collateral Agent and the Securities Intermediary may assign or transfer its rights under this Agreement and any other Security Documents to any Affiliate that meets the requirements of Section 2.11(b) subject to the prior written consent of the Borrower (so long as no Event of Default has occurred and is continuing) and the Required Creditors.

ARTICLE III BORROWER REMAINS LIABLE

Anything herein to the contrary notwithstanding, (a) the Borrower shall remain liable under its contracts and agreements (including the Finance Documents to which it is a party) to its respective counterparties to the extent set forth therein to perform all of its duties and obligations thereunder to the same extent as if this Agreement had not been executed, (b) the exercise by the Collateral Agent of any of the rights hereunder shall not release the Borrower from any of its duties or obligations to its respective counterparties under its contracts and agreements, and (c) neither the Collateral Agent nor any of the other Secured Parties shall have any obligation or liability to the respective counterparties under the contracts and agreements of the Borrower to which the Collateral Agent or any of the other Secured Parties is not a party solely by reason of this Agreement, nor shall the Collateral Agent be obligated to perform any of the obligations or duties of the Borrower thereunder or to take any action to collect or enforce any claim for payment assigned thereunder. Notwithstanding the foregoing, if the Borrower fails to perform any agreement or obligation of the Borrower contained herein relating to the perfection or preservation of the

Collateral, the Collateral Agent may (but shall not be obligated to) itself perform, or cause performance of, such agreement or obligation, and the reasonable and documented expenses of the Collateral Agent incurred in connection therewith shall be payable by the Borrower under Article VII hereof.

ARTICLE IV REASONABLE CARE

The powers conferred on the Collateral Agent hereunder are being conferred solely to protect its interest in the Collateral for the benefit of the Secured Parties and shall not impose any duty upon it to exercise any such powers unless otherwise expressly provided. Except for the safe custody and preservation of the Collateral in its possession, the accounting for monies actually received, transferred or disbursed by it hereunder and the obligations pursuant to Section 5.03(g), the Collateral Agent shall have no other duty as to the Collateral, whether or not the Collateral Agent or any of the other Secured Parties has or is deemed to have knowledge of any matters, or as to the taking of any necessary steps to preserve rights against any parties or any other rights pertaining to the Collateral. The Collateral Agent hereby agrees to exercise reasonable care in respect of the custody and preservation of the Collateral. The Collateral Agent shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession if such Collateral is accorded treatment substantially equal to that which the Collateral Agent accords property that it customarily holds in the capacity of collateral agent.

ARTICLE V THE PROJECT ACCOUNTS

Section 5.01 Establishment of Project Accounts and Other Accounts.

(a) As of the date hereof, the Borrower has established and created the accounts identified below with the Securities Intermediary, each in the name of the Borrower (collectively, each such account and any Additional Pari Passu Debt Proceeds Account, including, in each case, any sub-accounts established and created from time to time, the "**Securities Accounts**"; and the Securities Accounts also constitute Project Accounts):

- (i) account number 235002000 (the "**Revenue Account**");
- (ii) the "**Pari Passu Debt Service Account**", and within the Pari Passu Debt Service Account, the following sub-accounts:
 - A. account number 235002001 (the "**PWB Debt Service Sub-Account**"), and within the PWB Debt Service Sub-Account, the following subaccounts:
 - (1) account number 235002002, the "**PWB Interest Account**";
 - and
 - (2) account number 235002003, the "**PWB Principal Account**";
 - and
 - B. account number 235002011 (the "**TIFIA Debt Service Sub-Account**"), and within the TIFIA Debt Service Sub-Account, the following subaccounts:
 - (1) account number 235002012, the "**TIFIA Interest Account**";
 - and

(2) account number 235002013, the “**TIFIA Principal Account**”; and

(iii) the “**Pari Passu Debt Service Reserve Account**”, and within the Pari Passu Debt Service Reserve Account, the following sub-accounts:

- A. account number 235002004 (the “**PWB Debt Service Reserve Sub-Account**”); and
- B. account number 235002014 (the “**TIFIA Debt Service Reserve Sub-Account**”).

Notwithstanding anything herein to the contrary, upon the written instruction of the Borrower, the Securities Intermediary may from time to time hereafter establish and maintain additional sub-accounts within the Project Accounts. Each such sub-account shall be a separately identified account with a separate and distinct name and account number and, upon establishment, shall constitute a Project Account hereunder. Each such sub-account shall be for the purposes and the term specified in such instruction, and deposits and withdrawals shall be permitted in those circumstances expressly provided for in any such instruction, which instructions shall in each case conform to the requirements and limitations applicable to the Project Account (including those set forth herein) with respect to which any such sub-account has been established. The Securities Intermediary shall promptly, and in any event prior to establishing any such sub-account, provide written notice of any such request or instruction from the Borrower pursuant to this paragraph to the Secured Parties that are parties hereto or relevant representatives thereof.

(b) **Additional Pari Passu Debt Proceeds Accounts**

(i) In connection with the incurrence of any Additional Pari Passu Debt, upon the written instruction of the Borrower, the Securities Intermediary may hereafter establish and maintain from time to time in the Borrower's name one or more proceeds accounts (each, an “**Additional Pari Passu Debt Proceeds Account**”). Each Additional Pari Passu Debt Proceeds Account shall constitute a Project Account and a Securities Account.

(ii) All proceeds from the issuance of any Additional Pari Passu Debt, net of any original issue discount, underwriting discount or similar fee in respect thereof, in each case, received by the Borrower pursuant to the terms of the applicable Additional Pari Passu Loan Agreement and, thereafter, any Account Earnings with respect to such proceeds, shall be deposited in the applicable Additional Pari Passu Debt Proceeds Account, if applicable.

(iii) All moneys in any Additional Pari Passu Debt Proceeds Account shall be applied, at the instruction of the Borrower in accordance with a Funds Transfer Certificate pursuant to Section 5.09, solely to pay costs in compliance with the applicable Additional Pari Passu Loan Agreement and the applicable provisions of the other Finance Documents (including the PWB Loan Agreement and the TIFIA Loan Agreement) relating to the incurrence of such Additional Pari Passu Debt, and with respect to any future tax-exempt borrowings comprising Additional Pari Passu Debt, in compliance with the Code.

(iv) With respect to any future tax-exempt borrowings comprising Additional Pari Passu Debt, upon a date that is no earlier than five (5) years after the date of issuance of any such Additional Pari Passu Debt, and no later than five (5) years and sixty (60) days after the date of issuance of such Additional Pari Passu Debt, the remaining unspent proceeds of such Additional Pari Passu Debt, in each case, rounded down to the nearest multiple of \$5,000, from any remaining

unspent proceeds of such Additional Pari Passu Debt on deposit in the applicable Additional Pari Passu Debt Proceeds Account on such date (with respect to which, for the avoidance of doubt, no Secured Party shall have any right) shall be applied as follows, pursuant to one or more written directions of an Authorized Representative of the Borrower: (1) first, any applicable amount thereof shall be transferred to the applicable rebate fund for any such tax-exempt Additional Pari Passu Debt, as applicable; and (2) second, any remaining amount shall be transferred to the applicable sub-account of the Mandatory Prepayment Account for redemption of such Additional Pari Passu Debt in accordance with the applicable Additional Pari Passu Loan Agreement; provided, that no such transfer to the applicable sub-account of the Mandatory Prepayment Account or redemption of the Additional Pari Passu Debt will be required if the Borrower has obtained an opinion of bond counsel stating that the failure to redeem any such Additional Pari Passu Debt will not adversely affect the exclusion of interest on such Additional Pari Passu Debt from gross income for federal or State income tax purposes and that such redemption is not required by State law, in which case, any such remaining proceeds shall be transferred to the Revenue Account.

(v) With respect to any proceeds of Additional Pari Passu Debt that do not constitute tax-exempt borrowings, any amounts on deposit in any related Additional Pari Passu Debt Proceeds Account, after the completion of the work with respect to which such Additional Pari Passu Debt was incurred (as certified in writing by the Borrower to the Collateral Agent), shall promptly be transferred to the applicable sub-account of the Mandatory Prepayment Account for redemption of such Additional Pari Passu Debt.

(vi) As soon as practicable, following the date that all amounts on deposit in any Additional Pari Passu Debt Proceeds Account are transferred out of such Additional Pari Passu Debt Proceeds Account, the Collateral Agent shall close such Additional Pari Passu Debt Proceeds Account.

(vii) Notwithstanding anything to the contrary herein and subject to Section 6.06(c) hereof, the Lien on any Additional Pari Passu Debt Proceeds Account (and on all amounts deposited thereto and Account Earnings with respect to amounts deposited thereto) shall solely secure the obligations of the Borrower under the applicable Additional Pari Passu Loan Agreement (such exclusive Lien to continue upon and following the occurrence of a Bankruptcy Related Event) until such funds have been disbursed in accordance with this Section 5.01(b).

(c) The Securities Intermediary shall promptly, and in any event prior to establishing any account pursuant to clause (b) of this Section 5.01, provide written notice of any request or instruction from the Borrower to establish such account to the Secured Parties that are parties hereto or relevant representatives thereof. Upon creation of any account pursuant to clause (b) of this Section 5.01, the Securities Intermediary shall, by written notice, inform the other Secured Parties that are parties hereto or relevant representatives thereof of such account's purposes, terms and instructions. Any Additional Pari Passu Debt Proceeds Accounts (each of which shall be a separately identified account with a separate and distinct name and account number) shall be identified in the manner set forth in Section 5.01(a).

(d) All of the Project Accounts shall be under the control of the Collateral Agent and, except as expressly provided herein, the Borrower shall not have any right to withdraw funds from any Project Account (including sub-accounts). The Borrower hereby irrevocably authorizes the Collateral Agent to credit funds to or deposit funds in, and to withdraw and transfer funds from, each Project Account in accordance with the terms of this Agreement.

Section 5.02 [Reserved.]

Section 5.03 Revenue Account.

(a) From and after the Initial LTF Funds Deposit Date the Borrower shall deposit (or cause to be deposited) (i) immediately upon allocation from SLOCOG but no less frequently than on a quarterly basis, all LTF Funds allocated to the Borrower, (ii) on the twenty-third (23rd) day of each month (or, if such date is not a Business Day, the immediately preceding Business Day), subject to Section 5.03(g), all Farebox Revenues received by or on behalf of the Borrower, and (iii) when and to the extent required by Section 5.03(f), any other Revenues, in each case into the Revenue Account. The Borrower shall at all times maintain in effect the SLOCOG Irrevocable Instruction and each Farebox Bank Irrevocable Instruction and use commercially reasonable efforts to ensure that SLOCOG and each Farebox Bank maintain compliance with the respective instruction applicable to it. If, notwithstanding the SLOCOG Irrevocable Instruction and the Farebox Bank Irrevocable Instructions, the Borrower receives any LTF Funds (except for LTF Funds that have been released to the Borrower pursuant to this Agreement) or, except to the extent a No Transfer Order is in effect, Farebox Revenues, the Borrower shall hold all such amounts coming into its possession in trust for the benefit of the Secured Parties and shall turn over such LTF Funds and Farebox Revenues, in the form received, to the Collateral Agent for deposit to the Revenue Account.

(b) At the instruction of the Borrower in accordance with a Funds Transfer Certificate pursuant to Section 5.09, and subject to Section 6.06 hereof, the Collateral Agent shall make the following withdrawals, transfers and payments from the Revenue Account (and any sub-accounts thereof) as set forth in the applicable Funds Transfer Certificate, on each Transfer Date, and, with respect to funds deposited to the Revenue Account in accordance with Section 5.03(a)(iii), on any date on which such funds are deposited into the Revenue Account, in the following amounts and in the following order of priority (it being agreed that (i) no amount shall be withdrawn on any date pursuant to any clause below (A) until amounts sufficient as of that date (to the extent applicable) for all the purposes specified under the prior clauses shall have been withdrawn or set aside or (B) in respect of any items for which amounts have previously been transferred) and (ii) each such transfer shall be made only to the extent there are sufficient amounts on deposit in the Revenue Account, on such date to make any such transfer:

First, on a pari passu basis, deposits to the PWB Debt Service Sub-Account, the TIFIA Debt Service Sub-Account, and to each other applicable sub-account of the Pari Passu Debt Service Account for any Additional Pari Passu Debt, as applicable, until the following amounts have been fully funded:

(a) for the PWB Debt Service Sub-Account, (i) the interest due on the PWB Loan on the next Interest Payment Date, plus (ii) (A) for any Payment Period beginning on a Principal Payment Date, fifty percent (50%) of the principal due on the PWB Loan on the next Principal Payment Date or (B) for any Payment Period that does not begin on a Principal Payment Date, one hundred percent (100%) of the principal due on the PWB Loan on the next Principal Payment Date, plus (iii) any fees, costs, expenses and other amounts then due and payable under the PWB Loan Agreement;

(b) for the TIFIA Debt Service Sub-Account, (i) the interest due on the TIFIA Loan on the next Interest Payment Date, plus (ii) (A) for any Payment Period beginning on July 1, fifty percent (50%) of the principal due on the TIFIA Loan on the next Principal Payment Date or (B) for any Payment Period beginning on January 1, one hundred percent (100%) of the principal due on the TIFIA Loan on the next Principal Payment Date, plus (iii) any fees, costs, expenses and other amounts then due and payable under the TIFIA Loan Agreement; and

(c) for each applicable sub-account of the Pari Passu Debt Service Account (other than the PWB Debt Service Sub-Account and the TIFIA Debt Service Sub-Account), in each case (i) the

interest due on the applicable Pari Passu Debt with respect to such account on the next Interest Payment Date, plus (ii) (A) for any Payment Period beginning on a Principal Payment Date, fifty percent (50%) of the principal due on the applicable Pari Passu Debt with respect to such account on the next Principal Payment Date or (B) for any Payment Period that does not begin on a Principal Payment Date, one hundred percent (100%) of the principal due on the applicable Pari Passu Debt with respect to such account on the next Principal Payment Date; provided that if the principal on any Pari Passu Debt is payable on a semi-annual basis, clause (ii) shall read “the principal due on the applicable Pari Passu Debt with respect to such account on the next semi-annual principal payment date for such Pari Passu Debt”, plus (iii) any fees, costs, expenses and other amounts then due and payable under the applicable Additional Pari Passu Loan Agreement;

provided further, that on each Interest Payment Date, amounts on deposit in the TIFIA Debt Service Sub-Account, the PWB Debt Service Sub-Account and any such other applicable sub-account of the Pari Passu Debt Service Account, as applicable, shall be transferred by the Collateral Agent in an amount required for the payment of interest then due and payable on the applicable Secured Obligations, on each Principal Payment Date, amounts on deposit in the TIFIA Debt Service Sub-Account, the PWB Debt Service Sub-Account and any such other applicable sub-account of the Pari Passu Debt Service Account, as applicable, shall be transferred by the Collateral Agent in an amount required for the payment of principal then due and payable on the applicable Secured Obligation, and on each date when any other fees, costs, expenses and other amounts are then due and payable on any Secured Obligations, amounts on deposit in the TIFIA Debt Service Sub-Account, the PWB Debt Service Sub-Account and any such other applicable sub-account of the Pari Passu Debt Service Account, as applicable, shall be transferred by the Collateral Agent in an amount required for the payment of such fees, costs, expenses and other amounts then due and payable on the applicable Secured Obligations;

Second, on a pari passu basis, deposits to the PWB Debt Service Reserve Sub-Account, the TIFIA Debt Service Reserve Sub-Account and to each applicable sub-account of the Pari Passu Debt Service Reserve Account established for any Additional Pari Passu Debt, as applicable, in an amount, if any:

(a) for the PWB Debt Service Reserve Sub-Account, such that amounts on deposit therein are at least equal to the PWB Debt Service Reserve Required Balance;

(b) for the TIFIA Debt Service Reserve Sub-Account, such that amounts on deposit therein are at least equal to the TIFIA Debt Service Reserve Required Balance; provided that the TIFIA Debt Service Reserve Sub-Account shall initially be funded in an amount equal to the TIFIA Debt Service Reserve Required Balance by no later than October 1, 2020; and

(c) for each other applicable sub-account of the Pari Passu Debt Service Reserve Account established for any Additional Pari Passu Debt, in each case, such that amounts on deposit therein are at least equal to the Pari Passu Debt Service Reserve Required Balance for such sub-account;

provided, that amounts on deposit in the PWB Debt Service Reserve Sub-Account, the TIFIA Debt Service Reserve Sub-Account, and any other applicable sub-account of the Pari Passu Debt Service Reserve Account, as applicable, shall be transferred by the Collateral Agent in an amount and when required to ensure the timely payment of interest and principal on the PWB Loan, the TIFIA Loan or the applicable Additional Pari Passu Debt with respect to such sub-account, as applicable, that is not otherwise paid by Revenues deposited to the Revenue Account;

Third, on any Transfer Date occurring in June or December, on a pari passu basis, deposits to the PWB Debt Service Sub-Account, the TIFIA Debt Service Sub-Account and any other applicable sub-account of the Pari Passu Debt Service Account, as applicable, until the amounts on deposit in such accounts (excluding any amounts on deposit therein that will be transferred out of such accounts by the Collateral Agent in accordance with clauses "First" and "Second" of Section 5.03(b) on the next Payment Date for the payment of interest, principal and any other fees, costs, expenses and other amounts then due and payable on the applicable Secured Obligations on such Payment Date) are sufficient to satisfy the No Transfer Conditions set forth in clause (a) of the definition thereof for the next succeeding Payment Period after the current Payment Period.

Fourth, on any Transfer Date occurring in June or December, on a pari passu basis, deposits to the PWB Debt Service Reserve Sub-Account, the TIFIA Debt Service Reserve Sub-Account and any other applicable sub-account of the Pari Passu Debt Service Reserve Account, as applicable, until the amounts on deposit in such accounts (excluding any amounts on deposit therein that will be transferred out of such accounts by the Collateral Agent in accordance with clauses "First" and "Second" of Section 5.03(b) on the next Payment Date for the payment of interest and principal then due and payable on the applicable Secured Obligations on such Payment Date) are sufficient to satisfy the No Transfer Conditions set forth in clause (b) of the definition thereof for the next succeeding Payment Period after the current Payment Period.

Fifth, if a mandatory prepayment or mandatory redemption under any Secured Obligation is then due and payable, to the Mandatory Prepayment Account to make payments in respect of mandatory prepayments and mandatory redemptions of the outstanding Secured Obligations solely to the extent not payable from amounts on deposit in another Project Account pursuant to the terms hereof (collectively, the "**Mandatory Payments**") in an amount equal to the total aggregate amount of such Mandatory Payments then due and payable in respect of such Secured Obligations;

Sixth, if any Permitted Subordinated Loans are outstanding, to any sub-account of the Revenue Account established for the payment of interest on Permitted Subordinated Loans (if any), an amount not to exceed (together with amounts then on deposit therein) the interest then due and payable on any outstanding Permitted Subordinated Loans plus any other amounts required to be deposited in accordance with the relevant financing documents; provided, that on each Interest Payment Date, amounts on deposit in such sub-account shall be transferred by the Collateral Agent for the payment of interest then due and payable on such Permitted Subordinated Loans; and

Seventh, if any Permitted Subordinated Loans are outstanding, to any sub-account of the Revenue Account established for the payment of principal on Permitted Subordinated Loans (if any), an amount not to exceed (together with amounts then on deposit therein) the principal then due and payable on any outstanding Permitted Subordinated Loans plus any other amounts required to be deposited in accordance with the relevant financing documents; provided, that on each Principal Payment Date, amounts on deposit in such sub-account shall be transferred by the Collateral Agent for the payment of the principal then due and payable on such Permitted Subordinated Loans.

(c) If, on the date of any withdrawal or transfer from the Revenue Account for payment pursuant to any of clauses "First" through "Seventh" of Section 5.03(b), the amount required to be withdrawn and transferred from the Revenue Account pursuant to such clause exceeds the amount then on deposit in or credited to the Revenue Account after the withdrawals and transfers made pursuant to all applicable preceding clauses are completed, the amount on deposit in or credited to the Revenue Account at the time of application pursuant to such clause shall be transferred *pro rata* to each of the Persons (or Project Accounts) specified in such clause based on the respective amounts owed to such Persons (or otherwise required to be transferred) pursuant to such clause (including, upon and following the occurrence

of a Bankruptcy Related Event) based on outstanding principal, as of such date of withdrawal or transfer); provided that (i) the payments described in this paragraph shall be applied in accordance with the payment priorities set forth in Section 5.03(b) and (ii) the payments due at a particular level of the waterfall set forth in Section 5.03(b) shall be made in full before any payment is made at the next level.

(d) For the avoidance of doubt, after application of funds in the Revenue Account on any Transfer Date or any other specified date pursuant to Section 5.03(b), to the extent any funds remain in the Revenue Account, such funds shall be transferred by the Collateral Agent to the Borrower.

(e) To the extent that the balance of funds on deposit in any Project Account with a required minimum balance exceeds such required minimum balance as of any Transfer Date, such excess funds will be transferred to the Revenue Account for application as contemplated by this Section 5.03.

(f) If LTF Funds and Farebox Revenues on deposit in the Pari Passu Debt Service Account (or the applicable sub-accounts thereunder), the TIFIA Debt Service Reserve Sub-Account, the PWB Debt Service Reserve Sub-Account, or any other applicable sub-account of the Pari Passu Debt Service Reserve Account are at any time not sufficient to satisfy each of the No Transfer Conditions, the Borrower shall deposit (or cause to be deposited) other Revenues to the Revenue Account as needed to meet the Borrower's funding obligations pursuant to clauses "First" through "Second" in Section 5.03(b) by the applicable Payment Date or other applicable date set forth in Section 5.03(b).

(g) On each Determination Date, the Collateral Agent shall determine whether the No Transfer Conditions are satisfied. If the No Transfer Conditions are satisfied, the Collateral Agent shall notify each Farebox Bank in writing (with a copy to the Borrower, PWB and the TIFIA Lender), by no later than the Business Day immediately following the Determination Date, that no transfer of Farebox Revenues to the Revenue Account is required during the current Payment Period (a "**No Transfer Order**"). If the Collateral Agent does not issue a No Transfer Order at such time, the Collateral Agent shall continue to deposit to the Revenue Account Farebox Revenues received from each Farebox Bank, as described in Section 5.03(b), until the No Transfer Conditions are satisfied, at which time the Collateral Agent will issue a No Transfer Order (with a copy to the Borrower, PWB and the TIFIA Lender). The Borrower may deposit any funds available to it into the Revenue Account in order to satisfy the No Transfer Conditions and the Collateral Agent shall deposit such funds in accordance with clauses "First" through "Second" of Section 5.03(b). If at any time the No Transfer Conditions are satisfied by the deposit of any available funds of the Borrower (including Revenues pursuant to Section 5.03(f)) to the Revenue Account, the Collateral Agent will issue a No Transfer Order (with a copy to the Borrower, PWB and the TIFIA Lender) at that time.

(h) To the extent that the Collateral Agent receives Farebox Revenues from any Farebox Bank at a time when a No Transfer Order is in effect, the Collateral Agent shall transfer such Farebox Revenues to the Borrower. To the extent that the Collateral Agent fails to issue a No Transfer Order at a time when the No Transfer Conditions have been satisfied, the Borrower shall deliver written notice to the Collateral Agent, PWB and the TIFIA Lender of such circumstances and, upon confirming that the No Transfer Conditions are satisfied as of such time, the Collateral Agent shall issue a No Transfer Order covering the remainder of such Payment Period.

Section 5.04 Pari Passu Debt Service Account.

(a) The PWB Debt Service Sub-Account, the TIFIA Debt Service Sub-Account, and any other sub-account of the Pari Passu Debt Service Account established for any Additional Pari Passu Debt shall be funded in accordance with and subject to clauses "First" and "Third" of Section 5.03(b), as applicable.

(b) Funds on deposit in the PWB Debt Service Sub-Account shall be applied to pay principal, accrued and unpaid interest, and any other fees, costs, expenses and other amounts due and payable on the PWB Loan.

(c) Funds on deposit in the TIFIA Debt Service Sub-Account shall be applied to pay principal, accrued and unpaid interest, and any other fees, costs, expenses and other amounts due and payable on the TIFIA Loan.

(d) Funds on deposit in any other sub-account of the Pari Passu Debt Service Account shall be applied to pay principal, accrued and unpaid interest, and any other fees, costs, expenses and other amounts due and payable on the applicable Additional Pari Passu Debt related to such sub-account.

(e) Notwithstanding anything to the contrary herein and subject to Section 6.06(c) hereof, the Lien on (i) the PWB Debt Service Sub-Account (and on all amounts deposited thereto and Account Earnings with respect to amounts deposited thereto) shall solely secure the obligations of the Borrower under the PWB Loan Agreement (such exclusive Lien to continue upon and following the occurrence of a Bankruptcy Related Event), and shall be established solely for the benefit of PWB, and will be held by the Collateral Agent, and the lien thereon maintained, for the exclusive benefit of only PWB, (ii) the TIFIA Debt Service Sub-Account (and on all amounts deposited thereto and Account Earnings with respect to amounts deposited thereto) shall solely secure the obligations of the Borrower under the TIFIA Loan Agreement (such exclusive Lien to continue upon and following the occurrence of a Bankruptcy Related Event), and shall be established solely for the benefit of the TIFIA Lender, and will be held by the Collateral Agent, and the lien thereon maintained, for the exclusive benefit of only the TIFIA Lender and (iii) any other sub-account of the Pari Passu Debt Service Account (and on all amounts deposited thereto and Account Earnings with respect to amounts deposited thereto) shall solely secure the obligations of the Borrower with respect to the applicable Additional Pari Passu Debt related to such sub-account (such exclusive Lien to continue upon and following the occurrence of a Bankruptcy Related Event), and shall be established solely for the benefit of the applicable Secured Party, and will be held by the Collateral Agent, and the lien thereon maintained, for the exclusive benefit of only such Secured Party.

Section 5.05 Pari Passu Debt Service Reserve Account.

(a) The PWB Debt Service Reserve Sub-Account, the TIFIA Debt Service Reserve Sub-Account, and any other sub-account of the Pari Passu Debt Service Reserve Account established for any Additional Pari Passu Debt shall be funded in accordance with and subject to clauses "Second" and "Fourth" of Section 5.03(b), as applicable.

(b) Funds on deposit in the PWB Debt Service Reserve Sub-Account shall be applied when and in an amount required to pay principal and accrued and unpaid interest due and payable on the PWB Loan that is not otherwise paid by Revenues deposited to the Revenue Account.

(c) Funds on deposit in the TIFIA Debt Service Reserve Sub-Account shall be applied when and in an amount required to pay principal and accrued and unpaid interest due and payable on the TIFIA Loan that is not otherwise paid by Revenues deposited to the Revenue Account.

(d) Funds on deposit in any other applicable sub-account of the Pari Passu Debt Service Reserve Account established for any Additional Pari Passu Debt shall be applied when and in an amount required to pay principal and accrued and unpaid interest due and payable on the applicable Additional Pari Passu Debt with respect to such sub-account that is not otherwise paid by Revenues deposited to the Revenue Account.

(e) Notwithstanding anything to the contrary herein and subject to Section 6.06(c) hereof, the Lien on (i) the PWB Debt Service Reserve Sub-Account (and on all amounts deposited thereto and Account Earnings with respect to amounts deposited thereto) shall solely secure the obligations of the Borrower under the PWB Loan Agreement, and shall be established solely for the benefit of PWB, and will be held by the Collateral Agent, and the lien thereon maintained, for the exclusive benefit of only PWB, (ii) the TIFIA Debt Service Reserve Sub-Account (and on all amounts deposited thereto and Account Earnings with respect to amounts deposited thereto) shall solely secure the obligations of the Borrower under the TIFIA Loan Agreement (such exclusive Lien to continue upon and following the occurrence of a Bankruptcy Related Event), and shall be established solely for the benefit of the TIFIA Lender, and will be held by the Collateral Agent, and the lien thereon maintained, for the exclusive benefit of only the TIFIA Lender and (iii) any other applicable sub-account of the Pari Passu Debt Service Reserve Account established for any Additional Pari Passu Debt (and on all amounts deposited thereto and Account Earnings with respect to amounts deposited thereto) shall solely secure the obligations of the Borrower with respect to the applicable Additional Pari Passu Debt related to such sub-account (such exclusive Lien to continue upon and following the occurrence of a Bankruptcy Related Event), and shall be established solely for the benefit of the applicable Secured Party, and will be held by the Collateral Agent, and the lien thereon maintained, for the exclusive benefit of only such Secured Party.

Section 5.06 Mandatory Prepayment Account.

(a) On or before the date on which the Borrower enters into any Additional Pari Passu Loan Agreement that provides for the mandatory prepayment or mandatory redemption of the applicable Secured Obligations, the Borrower shall deliver written instructions to the Securities Intermediary directing the Securities Intermediary to establish and maintain the Mandatory Prepayment Account (and any sub-accounts therein with respect to such Secured Obligations) in the Borrower's name in accordance with Section 5.01(a).

(b) The Mandatory Prepayment Account shall be funded as follows:

(i) from amounts transferred, if any, from the Revenue Account in accordance with clause "Fifth" of Section 5.03(b), to make Mandatory Payments in accordance with an Additional Pari Passu Loan Agreement, as applicable; and

(ii) from amounts transferred from any Additional Pari Passu Debt Proceeds Accounts in accordance with Section 5.01(b)(iv) and Section 5.01(b)(v).

(c) Funds deposited into the Mandatory Prepayment Account will be transferred into any sub-account of the Mandatory Prepayment Account established for any Secured Obligations in accordance with the provisions of this Section 5.06 for prepayment and redemption of any Secured Obligations to the extent required to be repaid thereby (and solely to the extent expressly required, on a *pro rata* basis based on the then outstanding principal amounts of such Secured Obligations) in accordance with the terms of the Finance Documents and the other provisions of this Agreement at such redemption prices and required prepayment amounts as and to the extent contemplated herein and therein; provided, that amounts on deposit in any sub-account established for any Secured Obligations shall be transferred by the Collateral Agent to the applicable debt service account for the applicable Secured Party for the mandatory redemption and/or mandatory prepayment of the related Secured Obligations at the instruction of the Borrower in accordance with a Funds Transfer Certificate pursuant to Section 5.09.

(d) Notwithstanding anything to the contrary herein and subject to Section 6.06(c) hereof, any sub-account under the Mandatory Prepayment Account established for any Secured Obligations shall be pledged solely as collateral to secure the related Secured Obligations and shall be established solely

for the benefit of the related Secured Parties, and will be held by the Collateral Agent, and the lien thereon maintained, for the exclusive benefit of only such related Secured Parties.

Section 5.07 Funds as Collateral. Any deposit made into the Project Accounts hereunder (except through clerical or other manifest error or in a manner that is otherwise inconsistent with this Agreement) shall be irrevocable and all cash, cash equivalents, Permitted Investments, instruments, and other Securities on deposit in the Project Accounts are subject to a Lien in favor of the Collateral Agent (on behalf of the Secured Parties) pursuant to Section 1.01 and shall be held by the Collateral Agent as Collateral for the benefit of the Secured Parties as provided herein.

Section 5.08 Investment.

(a) Funds in the Pari Passu Debt Service Reserve Account (and sub-accounts thereunder) may be invested and reinvested only in Permitted Investments (at the risk and expense of the Borrower) in accordance with written instructions given to the Collateral Agent by the Borrower (prior to the occurrence of an Event of Default and, thereafter (so long as such Event of Default shall be continuing), as directed by the Required Creditors and in accordance with the written instructions of the Required Creditors) and, unless an Event of Default has occurred and is continuing, the Borrower is entitled to instruct the Collateral Agent to liquidate Permitted Investments for purposes of effecting any such investment or reinvestment, upon permitted withdrawals from the respective accounts or for any other purpose permitted hereunder; provided, that absent such instruction, such amounts held in the Pari Passu Debt Service Reserve Account shall be invested and reinvested in Permitted Investments as selected by the Borrower in advance (which may be in the form of a standing instruction). The Collateral Agent shall not be required to take any action with respect to investing the funds in the Pari Passu Debt Service Reserve Account in the absence of written instructions by the Borrower or the Required Creditors (to the extent provided in accordance with the terms hereof). The Collateral Agent shall not be liable for any loss resulting from any Permitted Investment or the sale or redemption thereof made in accordance with the terms hereof. The Collateral Agent may conclusively rely upon investment instructions provided to it that such investments are Permitted Investments. If and when cash is required for disbursement in accordance with this Article V or Section 6.06 hereof, the Collateral Agent is authorized, without instructions from the Borrower, in the event the Borrower fails to direct the Collateral Agent to do so in a timely manner and to the extent necessary to make payments required pursuant to this Article V or Section 6.06 hereof, to cause Permitted Investments to be sold or otherwise liquidated into cash (without regard to maturity) in such manner as the Collateral Agent shall deem reasonable and prudent under the circumstances. The Borrower acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Borrower the right to receive brokerage confirmations of security transactions as they occur, the Borrower specifically waives receipt of such confirmations to the extent permitted by law. The Collateral Agent will provide the Borrower periodic cash transaction statements which shall include detail for all investment transactions made by the Collateral Agent hereunder.

(b) The Collateral Agent shall have no obligation to invest or reinvest the funds if all or a portion of the funds is deposited with (or instructions with respect to the same are given to) the Collateral Agent after 11 a.m. (E.S.T. or E.D.T., as applicable) on the day of deposit. Instructions to invest or reinvest that are received after 11 a.m. (E.S.T. or E.D.T., as applicable) will be treated as if received on the following Business Day.

(c) In the event the Collateral Agent does not receive investment instructions, the amounts held by the Collateral Agent pursuant to the provisions of this Agreement shall not be invested and the Collateral Agent shall not incur any liability for interest or income thereon.

(d) The parties hereto each acknowledge that non-deposit investment products are not obligations of or guaranteed by U.S. Bank National Association nor any of its affiliates, are not FDIC insured, and are subject to investment risks, including the possible loss of principal amount invested in one or more of the money market funds made available by the Collateral Agent and initially selected by the Borrower.

(e) Any investment direction contained herein may be executed through an affiliated broker or dealer of the Collateral Agent and any such affiliated broker or dealer shall be entitled to such broker's or dealer's usual and customary fees for such execution as agreed to by the Borrower. It is agreed and understood that the Collateral Agent may earn fees associated with the investments outlined above to the extent previously agreed with the Borrower. Neither the Collateral Agent nor its affiliates shall have a duty to monitor the investment ratings of any Permitted Investments.

(f) Investments may be held by the Collateral Agent directly or through any clearing agency or depository (collectively, the "**Clearing Agency**") including the federal reserve/treasury book-entry system for United States and federal agency securities, and The Depository Trust Company. The Collateral Agent shall not have any responsibility or liability for the actions or omissions to act on the part of any Clearing Agency.

Section 5.09 Withdrawal and Application of Funds; Priority of Transfers from Project Accounts; Event of Default.

(a) Except as expressly provided herein, each withdrawal or transfer of funds from the Project Accounts by the Collateral Agent on behalf of the Borrower will be made pursuant to an executed Funds Transfer Certificate, which certificate will be provided and prepared by the Borrower and will contain a certification by the Borrower, as applicable, that such withdrawal or transfer complies with the requirements of this Agreement.

(b) Unless a shorter period is acceptable to the Collateral Agent, such Funds Transfer Certificate relating to each applicable Project Account will be delivered to the Collateral Agent no later than two (2) Business Days prior to each date on which funds are proposed to be withdrawn or transferred. In the event that a Funds Transfer Certificate does not comply with the requirements of this Agreement and the other Finance Documents, the Collateral Agent has the right to reject such certificate and the Borrower will not be entitled to cause the proposed withdrawal or transfer until it has submitted a revised and compliant certificate.

(c) Notwithstanding anything to the contrary contained in this Agreement, upon receipt of a notice of an Event of Default, the Required Creditors may (i) in connection with or following the taking of an Enforcement Action, without consent of the Borrower, instruct the Collateral Agent in writing to apply proceeds of the Project Accounts to the payment of Secured Obligations, in accordance with the terms of this Agreement and in the order set forth in Section 6.06, so long as such payments are on account of amounts due under the Finance Documents in respect of such Secured Obligations and (ii) at any time prior to the taking of an Enforcement Action, instruct the Collateral Agent to apply the proceeds of the Project Accounts in the order set forth in Section 5.03(b); provided, that in the case of this clause (ii), amounts on deposit in the any Additional Pari Passu Debt Proceeds Account may only be applied in accordance with the provisions of Section 5.01(b).

Section 5.10 Termination of Project Accounts. Upon the payment in full in cash of the Secured Obligations, this Agreement will terminate, and the Collateral Agent will, within thirty (30) days of receipt of a request from the Borrower, countersigned by the Secured Creditors, and at the expense of the Borrower, close the Project Accounts and/or liquidate any investments credited thereto and/or transfer

the funds deposited therein or credited thereto, as directed by the Borrower. Thereafter, the Collateral Agent will be released from any further obligation to (a) comply with Entitlement Orders originated by the Collateral Agent to the extent that any of the Project Accounts is a "securities account" under the applicable provision of the UCC or (b) comply with instructions originated by the Required Creditors, to the extent that any of the Project Accounts is a "deposit account" under the applicable provision of the UCC or (c) comply with any obligation under any Finance Document except as specifically provided herein or therein, in each case as contemplated herein or therein. Nothing contained in this Section 5.10 will be construed to modify or otherwise affect the Collateral Agent's Lien in the Project Accounts and the funds therein, prior to such closure and liquidation and/or transfer in accordance with the terms hereof.

Section 5.11 Securities Intermediary.

(a) The Securities Accounts shall be established and maintained as securities accounts (within the meaning of Section 8-501(a) of the UCC) with a securities intermediary. Each of the parties to this Agreement, including U.S. Bank National Association, hereby agrees that U.S. Bank National Association (or any successor thereto) shall act as the securities intermediary (within the meaning of Section 8-102(a)(14) of the UCC or, with respect to book-entry securities, in the applicable Federal Book-Entry Regulations) (in such capacity (including its successors and assigns), the "**Securities Intermediary**") under and for the purposes of this Agreement and for so long as U.S. Bank National Association (or any successor thereto) is also acting in the capacity as the Collateral Agent.

(b) The Securities Intermediary hereby accepts and agrees to act as such under this Agreement and represents and warrants that it is as of the date hereof, and shall be for so long as it is the Securities Intermediary hereunder, a banking corporation or a national bank that in the ordinary course of its business maintains securities accounts for others, meets the requirements and qualifications set forth in the first sentence of Section 5.11(e) and is acting in that capacity hereunder. The Securities Intermediary agrees with the parties hereto that each of the Securities Accounts shall be an account to which Financial Assets may be credited and undertakes to treat the Collateral Agent as entitled to exercise the rights that comprise such Financial Assets. The Securities Intermediary agrees with the parties hereto that each item of property credited to each Securities Account shall be treated as a Financial Asset. Each of the Collateral Agent and the Securities Intermediary represents and warrants that it has not entered into any agreement or taken any other action that gives any Person other than the Collateral Agent control over any of the Securities Accounts or that is otherwise inconsistent with this Agreement. Each of the Collateral Agent and the Securities Intermediary agrees that it shall not become a party to any agreement or take any action that gives any Person other than the Collateral Agent control over any of the Securities Accounts or that is otherwise inconsistent with this Agreement. The Securities Intermediary agrees that any Financial Assets credited to such Securities Accounts, or any "securities entitlement" (as defined in Section 8-102(a)(17) of the UCC or, with respect to book-entry securities, in the applicable Federal Book-Entry Regulations) with respect thereto, shall not be subject to any Lien or right of set-off in favor of the Securities Intermediary or anyone claiming through the Securities Intermediary (other than the Collateral Agent). The Securities Intermediary hereby represents that, except for the claims and interests of the Collateral Agent and the Borrower in the Securities Accounts, the Securities Intermediary has no knowledge of, and has received no notice of, any claim to, or interest in, any Securities Account. If any Person asserts any lien (including any writ, garnishment, judgment, warrant of attachment, execution or similar process) against any Securities Account, the Securities Intermediary, upon obtaining written notice thereof, will promptly notify the Collateral Agent, the other Secured Parties that are parties hereto or relevant representatives thereof and the Borrower thereof.

(c) It is the intent of the Collateral Agent and the Borrower that the Collateral Agent (for the benefit of the Secured Parties) be the Entitlement Holder with respect to the Securities Accounts. In any event, the Securities Intermediary hereby agrees that it will comply with Entitlement Orders with

respect to any and/or all of the Securities Accounts originated by the Collateral Agent without further consent by the Borrower or any other Person. The Securities Intermediary covenants that it will not agree with any Person other than the Collateral Agent to comply with Entitlement Orders with respect to the Securities Accounts originated by any Person or entity other than the Collateral Agent. The Collateral Agent authorizes the Securities Intermediary to follow Entitlement Orders issued by the Borrower unless and until the Securities Intermediary receives an Entitlement Order from the Collateral Agent. Without limiting the Securities Intermediary's obligation or ability to comply with Entitlement Orders originated by the Collateral Agent, the Collateral Agent covenants with the Borrower that it shall not provide any such Entitlement Order unless an Event of Default shall have occurred and be continuing.

(d) The Securities Intermediary shall not change the name or account number of any Securities Account without the prior written consent of the Collateral Agent and, for so long as no Event of Default has occurred and is continuing, the Borrower and at least five (5) Business Days' prior notice to the Secured Parties that are parties hereto or relevant representatives thereof, and shall not change the Entitlement Holder. The Securities Intermediary shall at all times act as a "securities intermediary" (within the meaning of Section 8-102(a)(14) of the UCC or, with respect to book-entry securities, in the applicable Federal Book-Entry Regulations) in maintaining the Securities Accounts and shall credit to each Securities Account each Financial Asset to be held in or credited to each Securities Account pursuant to this Agreement. To the extent, if any, that the Collateral Agent is deemed to hold directly, as opposed to having a security entitlement in, any Financial Asset held by the Securities Intermediary for the Collateral Agent, the Securities Intermediary hereby agrees that it is holding such Financial Asset as the agent of the Collateral Agent and hereby expressly acknowledges and agrees that it has received notification of the Collateral Agent's security interest in such Financial Asset and that it is holding possession of such Financial Asset for the benefit of the Collateral Agent.

(e) Each Securities Account shall remain held at all times by a "securities intermediary" (within the meaning of Section 8-102(a)(14) of the UCC or, with respect to book-entry securities, in the applicable Federal Book-Entry Regulations) that is a bank organized under the laws of the United States of America or any state thereof that has offices in the State of New York with unsecured long-term debt which shall be rated no lower than 'A', 'A2' or the equivalent rating from each Nationally Recognized Rating Agency that provides a rating on such bank's unsecured long-term debt and that has a total capital stock and unimpaired surplus of not less than \$500,000,000. The Securities Intermediary shall give notice to the Collateral Agent and the Borrower of the location of the Securities Accounts and of any change thereof prior to the use or change thereof. If at any time the Securities Intermediary shall fail to meet such requirements and qualifications set forth in the first sentence above, the Borrower shall replace the Securities Intermediary as soon as practicable with a qualifying Securities Intermediary.

(f) Any income received by the Collateral Agent with respect to the balance from time to time on deposit in each Securities Account, including any interest or capital gains on investments in overnight securities made with amounts on deposit in each Securities Account, shall be credited to the applicable Securities Account. All right, title and interest in and to the cash amounts on deposit from time to time in each Securities Account together with any investments in overnight securities from time to time made pursuant to this Section 5.11 shall constitute part of the Collateral for the Secured Obligations and shall be held for the benefit of the Secured Parties and the Borrower as their interests shall appear hereunder and shall not constitute payment of the Secured Obligations (or any other obligations to which such funds are provided hereunder to be applied) until applied thereto as provided in this Agreement.

(g) In the event that, notwithstanding the last sentence of clause (b) above, the Securities Intermediary has or subsequently obtains by agreement, operation of Law or otherwise a Lien in any of the Securities Accounts, or any Financial Asset credited thereto, or any "securities entitlement" (as defined in Section 8-102(a)(17) of the UCC or, with respect to book-entry securities, in the applicable

Federal Book-Entry Regulations) with respect thereto, the Securities Intermediary hereby agrees that such Lien shall be subordinate to the Lien of the Collateral Agent.

(h) The "securities intermediary's jurisdiction" of the Securities Intermediary for purposes of the UCC (or the Uniform Commercial Code of any other jurisdiction to the extent applicable) is the State of New York.

(i) Terms used in Section 5.10 and this Section 5.11 that are defined in the UCC shall have the meaning set forth in the UCC. Without limiting the foregoing, the term "securities intermediary" shall, with respect to book-entry securities, have the meanings given to it, as applicable to the types of security under: 31 C.F.R. Part 357 (sale and issue of marketable book-entry Treasury bills, notes and Senior Loan); 12 C.F.R. Part 615 (book-entry securities of the Farm Credit Administration and related conditions); 12 C.F.R. 987 (book-entry securities of the Financial Federal Housing Board), 12 C.F.R. Part 1511 (book-entry securities of the Resolution Funding Corporation); 24 C.F.R. Part 81 (book-entry securities of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation); 31 C.F.R. Part 354 (book-entry securities of the Student Loan Marketing Association); 18 C.F.R. Part 1314 (book-entry securities of Tennessee Valley Authority); and 24 C.F.R. Part 350 (book-entry securities of Government National Mortgage Association).

(j) To the extent that any Project Account is not considered a "securities account" (within the meaning of Section 8-501(a) of the UCC), such Project Account shall be deemed to be a "deposit account" (as defined in Section 9-102(a)(29) of the UCC), which the Collateral Agent shall maintain with the Securities Intermediary acting not as a securities intermediary but as a "bank" (within the meaning of Section 9-102(a)(8) of the UCC) and, in such circumstances, the "bank's jurisdiction" of the Securities Intermediary for purposes of the UCC (or the Uniform Commercial Code of any other jurisdiction to the extent applicable) is the State of New York. The Securities Intermediary hereby agrees to comply with any and all instructions originated by the Collateral Agent directing disposition of funds in any and/or all of the Project Accounts without any further consent of the Borrower or any other Person. The Collateral Agent authorizes the Securities Intermediary to comply with any instructions with respect to any such deposit accounts from the Borrower unless and until the Securities Intermediary receives instructions with respect to any such deposit accounts from the Collateral Agent. Without limiting the Securities Intermediary's obligation or ability to comply with any instructions with respect to any such deposit accounts from the Collateral Agent, the Collateral Agent covenants with the Borrower that it shall not provide any such instructions unless an Event of Default shall have occurred and be continuing.

Section 5.12 Inadequately Identified Amounts. In the event that the Collateral Agent receives any amount which is inadequately or incorrectly identified as to the Project Account into which such amount is to be credited, the Collateral Agent shall notify the Borrower (with a copy of such notice to the other Secured Parties that are parties hereto or relevant representatives thereof) of such event and shall request instructions as to the Project Account into which such amount should be credited. With respect to any such amount, the Collateral Agent shall credit such amount to the Revenue Account, in each case until such time as the Collateral Agent receives instructions from the Borrower in accordance herewith stating that such amount should be credited to another Project Account in accordance with the Finance Documents, in which case the Collateral Agent shall credit such amount to the Project Account designated by the Borrower.

Section 5.13 Tax Reporting. All Account Earnings relating to the Project Accounts shall be reported to the Internal Revenue Service and, to the extent applicable, all state and local taxing authorities under the name and taxpayer identification number of the Borrower. The Borrower shall prepare or cause to be prepared any tax returns or other forms or information required to be filed in connection with any such earnings. The Collateral Agent does not have any interest in the Collateral deposited hereunder but is serving as collateral agent only and having only possession thereof. The Borrower shall pay or reimburse

the Collateral Agent upon request for any transfer taxes or other Taxes relating to the Collateral incurred in connection herewith and shall indemnify and hold harmless the Collateral Agent from any amounts that it is obligated to pay in the way of such Taxes to the extent paid by the Collateral Agent in respect of the Collateral. The Borrower will provide the Collateral Agent with appropriate W-9 forms for taxpayer identification numbers, number certifications, or W-8 forms for non-resident alien certifications. This paragraph shall survive notwithstanding any termination of this Agreement or the resignation or removal of the Collateral Agent.

ARTICLE VI COLLATERAL AND REMEDIES

Section 6.01 Administration of Collateral. The Project Accounts and the amounts on deposit therein shall be held by the Collateral Agent for the benefit of the Secured Parties pursuant to the terms hereof and any other Security Documents and shall be administered by the Collateral Agent in the manner contemplated hereby and thereby.

Section 6.02 Knowledge of Event of Default. Notwithstanding anything to the contrary contained in this Agreement or any document executed in connection with any of the Secured Obligations, the Collateral Agent, unless a responsible officer of the Collateral Agent shall have actual knowledge thereof, shall not be deemed to have any knowledge of any Event of Default unless and until it shall have received written notice from the Borrower or any other Secured Party describing such Event of Default in reasonable detail. If the Collateral Agent receives any such notice, the Collateral Agent shall deliver a copy thereof to the other Secured Parties that are parties hereto (or representatives thereof); provided that if the Collateral Agent receives any such notice from a Person other than the Borrower, the Collateral Agent also shall deliver a copy thereof to the Borrower.

Section 6.03 Enforcement of Remedies. Upon the occurrence of any Event of Default, the Collateral Agent shall, subject to the other provisions of this Agreement, take such Enforcement Action with respect to such Event of Default as shall be directed by the Required Creditors, acting in accordance with the terms of this Agreement and the other applicable Finance Documents (a "**Direction Notice**"), subject to the requirements of Section 5.09(c) with respect to application of proceeds of the Project Accounts; provided that, in the absence of a Direction Notice, the Collateral Agent may (but shall not be obligated to) take such action (with written notice thereof to the other Secured Parties that are parties hereto or the representatives thereof) or refrain from taking such action with respect to such Event of Default as it shall deem in the best interests of the Secured Parties and solely to the extent permitted hereunder or pursuant to any other Security Documents. Upon receipt by the Collateral Agent of a Direction Notice, the Collateral Agent shall seek to enforce the Security Documents (with prior notice thereof to the Borrower, to the extent not in violation of Law or court order) and to realize upon the Collateral in accordance with such Direction Notice and otherwise in accordance with the terms hereof and of any other Security Documents; provided, however, that the Collateral Agent shall not be obligated to follow any Direction Notice if the Collateral Agent reasonably determines that such Direction Notice is in conflict with any provisions of any applicable law or any Security Document, and the Collateral Agent shall not, under any circumstances except in the event of the Collateral Agent's gross negligence, fraud, bad faith or willful misconduct, be liable to any Secured Party, the Borrower or any other Person for following a Direction Notice.

Section 6.04 Remedies of the Secured Parties. Unless otherwise consented to in writing by the Required Creditors (acting in accordance with the terms of this Agreement), no Secured Party, individually or together with any other Secured Parties (other than the Collateral Agent, in such capacity), shall have the right, nor shall it (i) exercise or enforce any of the rights, powers or remedies which the Collateral Agent is authorized to exercise or enforce under this Agreement or under any other Security

Documents, (ii) sue for or institute any creditor's process (including an injunction garnishment, execution or levy, whether before or after judgment) in respect of any Secured Obligation (whether or not for the payment of money) owing to it under or in respect of any Finance Document, (iii) take any step for the winding-up, administration of or dissolution of, or any insolvency proceeding in relation to, the Borrower, or for a voluntary arrangement, scheme of arrangement or other analogous step in relation to the Borrower, or (iv) apply for any order for an injunction or specific performance in respect of the Borrower in relation to any of the Finance Documents. Notwithstanding the foregoing, the Secured Parties hereby expressly acknowledge the TIFIA Lender's rights to take the actions described in clauses (b) through (f) of Section 19 of the TIFIA Loan Agreement, without the consent of the Required Creditors.

Section 6.05 Secured Party Information. In the event that the Collateral Agent proceeds to foreclose upon, collect, sell or otherwise dispose of or take any other action with respect to any or all of the Collateral or to enforce any provisions of the Security Documents or takes any other action pursuant to this Agreement or any provision of any other Security Documents or requests directions from the Required Creditors as provided herein, upon the request of the Collateral Agent, each of the other Secured Parties (or any agent of or representative for such Secured Party) shall promptly deliver a written notice to the Collateral Agent and each of the other Secured Parties that are parties hereto setting forth (a) the aggregate amount of Secured Obligations owing to such Secured Party under the applicable Finance Documents as of the date specified by the Collateral Agent in such request and (b) such other information as the Collateral Agent may reasonably request.

Section 6.06 Application of Proceeds.

(a) Subject to clauses (b) and (c) of this Section 6.06, after the taking of an Enforcement Action, all Proceeds received by the Collateral Agent derived from the funds set forth in clauses (i)-(iv) below pursuant to the exercise of any rights or remedies accorded to the Collateral Agent pursuant to, or by the operation of any of the terms of, any of the Security Documents shall be applied as follows:

(i) All amounts on deposit in, and all Proceeds attributable to any sub-account of the Pari Passu Debt Service Account shall be transferred to the relevant Secured Creditor with respect to such sub-account in accordance with the Lien granted on such sub-account and Proceeds attributable thereto pursuant to this Agreement as set forth in Section 5.04(e), first to pay for the *pro rata* payment of all accrued and unpaid interest on the applicable Secured Obligations with respect to such sub-account, second, if any unpaid principal of any such Secured Obligation is due and payable (by acceleration or otherwise), to the *pro rata* payment of such principal amounts, and third, if any unpaid fees, costs, expenses and other amounts with respect to any such Secured Obligation are due and payable, to the *pro rata* payment of such fees, costs, expenses and other amounts;

(ii) All amounts on deposit in, and all Proceeds attributable to any sub-account of the Pari Passu Debt Service Reserve Account shall be transferred to the relevant Secured Creditor with respect to such sub-account in accordance with the Lien granted on such sub-account and Proceeds attributable thereto pursuant to this Agreement as set forth in Section 5.05(e), first to pay for the *pro rata* payment of all accrued and unpaid interest on the applicable Secured Obligations with respect to such sub-account, and second, if any unpaid principal of any such Secured Obligation is due and payable (by acceleration or otherwise), to the *pro rata* payment of such principal amounts;

(iii) All amounts on deposit in, and all Proceeds attributable to any Additional Pari Passu Debt Proceeds Account shall be transferred to the relevant Secured Creditor with respect

to such account in accordance with the Lien granted on such account and Proceeds attributable thereto pursuant to this Agreement as set forth in Section 5.01(b)(vii), first to pay for the *pro rata* payment of all accrued and unpaid interest on the applicable series of Additional Pari Passu Debt with respect to such Additional Pari Passu Debt Proceeds Account, and second, if any unpaid principal of any such Additional Pari Passu Debt is due and payable (by acceleration or otherwise), to the *pro rata* payment of such principal amounts; and

(iv) All amounts on deposit in, and all Proceeds attributable to, any sub-account of the Mandatory Prepayment Account shall be transferred to the relevant Secured Creditor with respect to such sub-account in accordance with the Lien granted on such sub-account and Proceeds attributable thereto pursuant to this Agreement as set forth in Section 5.06(d), first to pay for the *pro rata* payment of all accrued and unpaid interest on the relevant Secured Obligations with respect to such sub-account and second, if any unpaid principal of any such Secured Obligation is due and payable (by acceleration or otherwise), to the *pro rata* payment of such principal amounts.

(b) Following the taking of an Enforcement Action, notwithstanding any provision contrary in this Agreement or any other Finance Document, but subject to Section 5.09(c) and clause (a) of this Section 6.06, the Collateral Agent, as directed by the Required Creditors, will have the right to direct the application of all amounts on deposit in or credited to the Project Accounts, and to otherwise deal with the Collateral, without the need for consent of, or any other action by, the Borrower or any other Secured Party. Subject to the prior application of the funds as described in clause (a) of this Section 6.06, following the taking of an Enforcement Action, all Proceeds received by the Collateral Agent pursuant to the exercise of any rights or remedies accorded to the Collateral Agent pursuant to, or by the operation of any of the terms of, any of the Security Documents, including proceeds from the sale or disposition of Collateral or other Enforcement Action and amounts available in or otherwise transferred from the Project Accounts shall be applied promptly by the Collateral Agent, after payment of unpaid fees, costs and expenses of the Collateral Agent (including those of its attorneys and advisors) due and payable in accordance with Sections 7.01 and 7.02, as directed by the Required Creditors as follows (provided, that any such proceeds that are to be used to pay any amounts to any Secured Creditor shall be paid to such Secured Creditor for deposit into the debt service fund applicable to such Secured Creditor's Secured Obligations, as the case may be):

First, to the *pro rata* payment of the unpaid fees, administrative costs and expenses due and payable to the Secured Parties under the Finance Documents, if any;

Second, to the *pro rata* payment of all accrued and unpaid interest due and payable on all Secured Obligations;

Third, to the *pro rata* payment of any unpaid principal of any Secured Obligation that is due and payable (by acceleration or otherwise);

Fourth, to the *pro rata* payment of all other amounts, if any, due and payable under the Finance Documents to the Secured Parties with respect to any Secured Obligations; and

Fifth, upon the payment in full of all Secured Obligations in accordance with clauses "First" through "Fourth" hereof, to pay to the Borrower, or as may be directed by the Borrower, or as a court of competent jurisdiction may direct, any Proceeds then remaining.

(c) If at any time any Secured Party shall for any reason obtain any payment or distribution upon or with respect to the Secured Obligations contrary to the terms of this Agreement, whether as a result of the Collateral Agent's exercise of any Enforcement Action in respect of the Collateral

or otherwise, such Secured Party agrees that it shall have received such amounts in trust, and shall promptly remit such amount so received in error to the Collateral Agent to be applied in accordance with the terms of this Agreement.

Section 6.07 Reliance on Information. For purposes of applying payments received in accordance with this Article VI, the Collateral Agent shall be entitled to rely upon the information received by, and upon the request of, the Collateral Agent for such purpose, pursuant to Section 2.05 and Section 6.05 of this Agreement, with respect to the amounts of the outstanding Secured Obligations owed to the Secured Parties and the amount of any proceeds distributed from the Project Accounts. In the event that the Collateral Agent, in its reasonable discretion, determines that it is unable to determine the amount or order of payments that should be made hereunder, the parties hereto agree that the Collateral Agent shall have the right, at its option, to deposit with, or commence an interpleader proceeding in respect of, such funds in a court of competent jurisdiction for a determination by such court as to the correct application of such funds hereunder.

Section 6.08 Right of Holders of Secured Obligations to Direct Collateral Agent. Notwithstanding anything in this Agreement to the contrary, the holders of a majority in aggregate principal amount of Secured Obligations then outstanding (the "**Required Creditors**") shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Collateral Agent, to give any instruction, consent or direction to the Collateral Agent as required or permitted to be given pursuant to the terms of this Agreement, subject to the requirements of Section 5.09(c) with respect to application of proceeds of the Project Accounts.

ARTICLE VII COMPENSATION, INDEMNITY AND EXPENSES

Section 7.01 Compensation; Fees and Expenses. The Borrower hereby agrees to pay to the Collateral Agent for its own account compensation in such amount as separately agreed upon in writing between the Borrower and the Collateral Agent. In addition, the Borrower shall pay on the next Transfer Date falling at least ten (10) Business Days after written demand from the Collateral Agent the amount of any and all other reasonable out-of-pocket expenses incurred by the Collateral Agent, including the reasonable and customary fees, charges and disbursements of any counsel for the Collateral Agent, in connection with (a) the preparation of amendments and waivers hereunder and under any other Security Documents requested by the Borrower; (b) the enforcement of the rights or remedies of the Collateral Agent under this Agreement or any other Security Document, including all reasonable out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of the Secured Obligations; (c) the sale of, collection from or other realization upon, the Collateral in accordance with the terms hereof and of any other Security Documents; and (d) lien and security interest searches and filings in connection with the Collateral.

Section 7.02 Borrower Indemnification. The Borrower shall indemnify each of the Collateral Agent, the Securities Intermediary and any Co-Collateral Agent, and each of their respective officers, directors, employees, agents and attorneys-in-fact (each such Person being called an "**Indemnitee**") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses, including the reasonable fees, charges and disbursements of any counsel for any Indemnitee, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of any Security Document or any agreement or instrument contemplated thereby to which such Indemnitee is a party or the performance by the parties hereto of their respective obligations hereunder or the consummation of the transactions contemplated thereby (including the performance by the parties hereto of their respective obligations under the Security Documents), (ii) any actual or alleged presence or release of hazardous material by the Borrower on or from the Project, or (iii) any actual claim,

litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and regardless of whether any Indemnatee is a party thereto; provided, that such indemnity shall not, as to any Indemnatee, be available to the extent that such losses, claims, damages, liabilities or related fees, charges, disbursements or expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnatee. The obligations of the Borrower under this Section 7.02 shall survive the payment in full of the Secured Obligations, any resignation or removal of the Collateral Agent and the Securities Intermediary pursuant to Section 2.11 hereof, and the termination of this Agreement pursuant to Article VIII hereof.

ARTICLE VIII TERMINATION

Upon termination of this Agreement pursuant to Section 5.10 of this Agreement, all rights to the Collateral as shall not have been sold or otherwise applied, in each case, pursuant to the terms hereof shall revert to the Borrower, its successors or assigns, or otherwise as a court of competent jurisdiction may direct. Upon any such termination, the Collateral Agent shall, at the Borrower's direction and expense, execute and deliver to the Borrower such documents as the Borrower shall reasonably request to evidence such termination.

ARTICLE IX ACCESSION

Section 9.01 Accession Generally. Any Person that is to become a party to this Agreement (an "Acceding Party"), including any Person that replaces any Secured Creditor party to this Agreement, shall accede to this Agreement by delivering to the Collateral Agent (with a copy to the Borrower and other Secured Parties that are parties hereto or relevant representatives thereof) an Accession Agreement, duly executed by that Acceding Party. Upon the execution of such Accession Agreement by an Acceding Party and the Collateral Agent, and acknowledged by the Borrower, such Acceding Party shall be a Secured Creditor hereunder and shall be bound by and subject to the terms and conditions of this Agreement. In connection with the issuance of any Additional Secured Debt, the Borrower shall ensure that the secured parties with respect to such Additional Secured Debt accede to this Agreement in accordance with this Section 9.01.

Section 9.02 Collateral Agent Instructions. The Collateral Agent is hereby authorized and instructed to promptly execute any Accession Agreement duly executed and delivered to the Collateral Agent by an Acceding Party, which is acknowledged by the Borrower.

ARTICLE X MISCELLANEOUS PROVISIONS

Section 10.01 Further Assurances. The Borrower agrees that from time to time, at its expense, it will promptly execute and deliver all further instruments and documents, and take all further action as the Collateral Agent or any Secured Party, with the consent of the Required Creditors, shall reasonably request to perfect and maintain perfected the Liens created and/or perfected hereunder and under the other Security Documents and to enable the Collateral Agent to exercise and enforce its rights and remedies hereunder and thereunder. Without limiting the foregoing, pursuant to any applicable law, the Borrower and the Collateral Agent authorize the TIFIA Lender, on behalf of the Collateral Agent, to file or record financing statements and other filing or recording documents or instruments with respect to the Project Accounts without the signature of the Borrower in such form and in such offices as the TIFIA Lender determines, in its sole discretion, advisable to perfect the security interests of the Collateral Agent under this Agreement.

The Borrower and the Collateral Agent authorize the TIFIA Lender, on behalf of the Collateral Agent, to use any description of the Project Accounts that are Securities Accounts described in Section 1.01 herein (including the defined terms used therein), with such broader or lesser scope as the TIFIA Lender, in its sole discretion, finds desirable.

Section 10.02 Amendments; Waivers.

(a) Any term, covenant, agreement or condition of this Agreement or of any other Security Documents may be amended, modified or waived only by an instrument in writing signed by each of the Collateral Agent (acting upon the instruction of the Required Creditors) and the Borrower; provided, that the consent of the Securities Intermediary shall be required for any amendment to Section 5.11 hereof or any other amendment that would modify the rights or obligations of the Securities Intermediary; provided, further, that any such amendment, modification or waiver that materially and adversely or disproportionately affects the rights of any Secured Party as compared to the other Secured Parties shall require the consent of such Secured Party.

(b) The waiver (whether express or implied) by the Collateral Agent of any breach of the terms or conditions of this Agreement shall not prejudice any remedy of the Collateral Agent in respect of any continuing or other breach of the terms and conditions hereof, and shall not be construed as a bar to any right or remedy which the Collateral Agent would otherwise have on any future occasion under this Agreement.

(c) No failure to exercise nor any delay in exercising, on the part of the Collateral Agent or any other Secured Party, of any right, power or privilege under this Agreement shall operate as a waiver thereof. No single or partial exercise by the Collateral Agent or any other Secured Party of any right, power or privilege under this Agreement shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege available to it. All remedies hereunder and under any other Security Documents are cumulative and are not exclusive of any other remedies that may be available to the Collateral Agent, whether at law, in equity or otherwise.

Section 10.03 Successors and Assigns.

(a) This Agreement and the other Security Documents, if any, shall be binding upon and inure to the benefit of the Collateral Agent, the Securities Intermediary, the Borrower, the other Secured Parties that are parties hereto, any Acceding Party and their respective successors and permitted assigns. Each Secured Party that is not a party hereto shall be an express third party beneficiary of this Agreement.

(b) Nothing contained in this Agreement or any other Security Document is intended to limit the right of any Secured Party to assign, transfer or grant participations in its rights in its respective Secured Obligations and Finance Documents.

Section 10.04 Notices. Unless otherwise expressly provided herein, all notices, instructions, consents, requests, directions and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or email, as follows:

(i) if to the Borrower:

San Luis Obispo Regional Transit Authority
179 Cross Street, Suite A
San Luis Obispo, CA 93401

Attention: Tania Arnold, CPA
Deputy Director/Chief Financial Officer
(805) 781-4397
Email: tarnold@slorta.org

with copies to:

Attention: Geoff Straw
Executive Director
(805) 781-4465
Email: gstraw@slorta.org

- (ii) if to the Collateral Agent and Securities Intermediary:

U.S. Bank National Association
633 W. Fifth Street, 24th Floor
Los Angeles, CA 90071
Attention: Global Corporate Trust

- (iii) if to the TIFIA Lender:

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

- (iv) if to PWB:

Pacific Western Bank
9701 Wilshire Blvd, Suite 700
Beverly Hills, CA 90212
Telephone: (310) 887-8509
Attention: Chris Baron, Managing Director

- (v) if to Pacific Western Bank (as a Farebox Bank)

Pacific Western Bank
1001 Marsh Street
San Luis Obispo, CA 93401
Attention: Carl Dudley, Vice President
Telephone: (805) 548-8215
Email: cdudley@pacwest.com

- (vi) if to San Luis Obispo County (as a Farebox Bank):

San Luis Obispo County
1055 Monterey Street, Room D-290
San Luis Obispo, CA 93408

Attention: James Hamilton, CPA
Auditor-Controller Treasurer-Tax Collector
(805) 781-5043
Email: jhamilton@co.slo.ca.us

All instructions required under this Agreement shall be delivered to the Collateral Agent in writing, in either original, electronic document format (e.g. pdf) or facsimile form, executed by an Authorized Representative. The identity of such Authorized Representatives, as well as their specimen signatures, shall be delivered to the Collateral Agent substantially in the form of a duly completed and executed Incumbency Certificate substantially in the form of Exhibit C (provided that for the TIFIA Lender, delivery of the TIFIA Lender's Authorized Representative Certificate, as provided pursuant to the TIFIA Loan Agreement, shall satisfy the requirements of this section) and shall remain in effect until such party notifies the Collateral Agent of any change by delivery of a replacement duly completed and executed Incumbency Certificate substantially in the form of Exhibit C. In its capacity as Collateral Agent, the Collateral Agent will accept all instructions and documents complying with the above under the indemnities provided in this Agreement, and reserves the right to refuse to accept any instructions or documents which fail to comply with the terms hereof; provided, that in the event of any such refusal by the Collateral Agent, the Collateral Agent shall promptly notify the relevant Authorized Representative executing the instructions or delivering the documents of such non-compliance and provide a reasonable time period for the correction thereof. Further to this procedure, the Collateral Agent reserves the right to telephone an Authorized Representative of the applicable Secured Creditor or the Borrower to confirm the details of such instructions or documents if they are not already on file with it as standing instructions, and the Collateral Agent agrees that it will promptly telephone an Authorized Representative of the applicable Secured Creditor or the Borrower, as applicable, if the Collateral Agent has determined that it will refuse to accept any instructions or documents which fail, or appear to fail, to comply. The Collateral Agent and the parties hereto agree that the above constitutes a commercially reasonable security procedure.

Any party hereto may change its address, email address or facsimile number for notices and other communications hereunder by notice to the Borrower, the Collateral Agent, PWB, the TIFIA Lender and the other Secured Parties party hereto. All notices or other communications required or permitted to be given pursuant to this Agreement shall be in writing and, if given in accordance with this Section, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered by hand or, in the case of notice given by mail, overnight delivery service, facsimile or email, when deposited in the mail, one Business Day after delivery to the overnight courier, or when sent by fax or email, as applicable; provided that any notice to be served on the Collateral Agent shall be effective only when actually received by the Collateral Agent, marked for the attention of the department or officer specified by the Collateral Agent for such purpose.

Section 10.05 Counterparts. This Agreement may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. Electronic delivery of an executed counterpart of a signature page of this Agreement or of any document or instrument delivered in connection herewith in accordance with Section 10.04 shall be effective as delivery of an original executed counterpart of this Agreement or such other document or instrument, as applicable, and any printed or copied versions of any signature page so delivered shall have the same force and effect as an originally signed version of such signature page. Signatures for this Agreement or for any document or instrument delivered in connection herewith may be made by electronic means, if accompanied by an email, contemporaneous or otherwise, confirming the use of such means.

Section 10.06 Governing Law; Consent to Jurisdiction; Waiver of Jury Trial.

(a) This Agreement and the rights and obligations of the parties under this Agreement shall be governed by and construed in accordance with the laws of the State of California. Each of the parties hereto hereby irrevocably consents and submits to the non-exclusive jurisdiction of any California state court sitting in Los Angeles County, California and of the United States District Court of the Central District sitting in Los Angeles County, in any suit, action or proceeding arising out of or relating to this Agreement.

(b) EXCEPT AS OTHERWISE SET FORTH IN THIS CLAUSE (B), EACH PARTY AGREES TO SUBMIT TO JUDICIAL REFERENCE PURSUANT TO SECTION 638, ET SEQ., OF THE CALIFORNIA CODE OF CIVIL PROCEDURE ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY EXHIBIT HERETO, ANY CLOSING DOCUMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT, STATUTE OR ANY OTHER LEGAL THEORY (HEREINAFTER "DISPUTE")); PROVIDED, HOWEVER, THAT IF ANY DISPUTE HEREUNDER ARISES, THE TIFIA LENDER SHALL HAVE THE RIGHT TO ELECT, IN ITS SOLE DISCRETION, WHETHER TO AGREE TO SUBMIT SUCH DISPUTE TO JUDICIAL REFERENCE, AS PROVIDED IN CLAUSE (C) BELOW. IF THE TIFIA LENDER ELECTS IN WRITING TO SUBMIT SUCH DISPUTE TO JUDICIAL REFERENCE, EACH OTHER PARTY HERETO HEREBY AGREES TO SUBMIT SUCH DISPUTE TO JUDICIAL REFERENCE. IF THE TIFIA LENDER ELECTS NOT TO SUBMIT SUCH DISPUTE TO JUDICIAL REFERENCE, EACH PARTY HERETO HEREBY WAIVES THE RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH DISPUTE AND AGREES NOT TO SUBMIT SUCH DISPUTE TO JUDICIAL REFERENCE.

(c) ANY JUDICIAL REFERENCE AGREED TO IN ACCORDANCE WITH CLAUSE (B) ABOVE WILL BE FILED AND PROSECUTED IN THE LOS ANGELES SUPERIOR COURT. PURSUANT TO SUCH JUDICIAL REFERENCE, THE PARTIES AGREE TO THE APPOINTMENT OF A SINGLE REFEREE AND TO USE THEIR BEST EFFORTS TO AGREE ON THE SELECTION OF A REFEREE. IF THE PARTIES TO THE APPLICABLE DISPUTE ARE UNABLE TO AGREE ON A SINGLE REFEREE, A REFEREE WILL BE APPOINTED BY THE COURT TO HEAR SUCH DISPUTE IN LIEU OF A JURY TRIAL. THE PARTIES AGREE THAT THE APPOINTED REFEREE WILL HAVE THE POWER TO DECIDE ALL ISSUES REGARDING SUCH DISPUTE IN THE APPLICABLE ACTION OR PROCEEDING, WHETHER OF FACT OR LAW, AND WILL REPORT A STATEMENT OF DECISION THEREON. THE PARTIES AGREE THAT THE PROVISIONS CONTAINED IN THIS AGREEMENT HAVE BEEN FAIRLY NEGOTIATED ON AN ARM'S-LENGTH BASIS, WITH ALL PARTIES BEING AFFORDED THE OPPORTUNITY TO HAVE THE ADVICE AND COUNSEL OF THEIR INDEPENDENT ATTORNEY. ANY PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION, TOGETHER WITH THE WRITTEN AGREEMENT OF THE TIFIA LENDER PROVIDED IN ACCORDANCE WITH CLAUSE (B) ABOVE, WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES TO THE APPLICATION OF JUDICIAL REFERENCE IN THE EVENT OF SUCH DISPUTE.

Section 10.07 Captions. The headings of the several articles and sections and clauses of this Agreement are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement.

Section 10.08 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective only

to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Agreement.

Section 10.09 Collateral Agent's Rights.

(a) If at any time the Collateral Agent is served with any judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process which in any way affects the Collateral (including but not limited to orders of attachment or garnishment or other forms of levies or injunctions or stays relating to the transfer of such property), the Collateral Agent is authorized to comply therewith in any manner it or legal counsel of its own choosing reasonably deems appropriate. If the Collateral Agent complies with any such judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process, the Collateral Agent shall not be liable to any of the parties hereto or to any other Person or entity even though such order, judgment, decree, writ or process may be subsequently modified or vacated or otherwise determined to have been without legal force or effect.

(b) In the event of any dispute between or conflicting claims by or among the Borrower and the Secured Parties with respect to any property being held by the Collateral Agent in connection with this Agreement or any other Security Documents, the Collateral Agent shall be entitled, in its sole discretion, to refuse to comply with any and all claims, demands or instructions with respect to such property so long as such dispute or conflict shall continue, and the Collateral Agent shall not be or become liable in any way to the Borrower or the Secured Parties for failure or refusal to comply with such conflicting claims, demands or instructions. The Collateral Agent shall be entitled to refuse to act until, in its sole discretion, either (i) such conflicting or adverse claims or demands shall have been determined by a final order, judgment or decree of a court of competent jurisdiction, which order, judgment or decree is not subject to appeal, or settled by agreement between the conflicting parties as evidenced in a writing reasonably satisfactory to the Collateral Agent or (ii) the Collateral Agent shall have received security or an indemnity reasonably satisfactory to it sufficient to hold it harmless from and against any and all losses which it may incur by reason of so acting (provided that any indemnity that may at any time be requested from the TIFIA Lender shall instead be provided by the Borrower and the Collateral Agent shall not refuse to take any action on the basis that the Borrower is providing such indemnification in lieu of the TIFIA Lender). Any court order, judgment or decree shall be accompanied by a legal opinion by counsel for the presenting party, reasonably satisfactory to the Collateral Agent, to the effect that said order, judgment or decree represents a final adjudication of the rights of the parties by a court of competent jurisdiction, and that the time for appeal from such order, judgment or decree has expired without an appeal having been perfected. The Collateral Agent shall act on such court order and legal opinions without further question.

(c) To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each Person who opens an account. When any account or sub-account is opened, the Collateral Agent shall be entitled to such information that will allow it to identify the individual or entity who is establishing the relationship or opening the account and may also ask for formation documents such as articles of incorporation or other identifying documents to be provided.

Section 10.10 Patriot Act Notification. The Collateral Agent hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act, Title III of Pub. L., 107-56 (signed into law October 26, 2001) (the "**Patriot Act**"), the Collateral Agent may be required to obtain, verify and record information that identifies the Borrower, which information includes the name, address, tax identification number and other information regarding the Borrower that will allow the Collateral Agent to identify the Borrower in accordance with the Patriot Act.

Section 10.11 Events Occurring on Days That Are Not Business Days. Other than as expressly set forth in this Agreement, if the date for making any payment or the last day for the performance of any act or the exercising of any right under this Agreement is a day that is not a Business Day, such payment shall be made, such act shall be performed and such right shall be exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date herein.

Section 10.12 Amendment and Restatement. It is the intention of each of the parties hereto that:

(a) this Agreement does not constitute a novation of the obligations and liabilities of the applicable parties under the Original CASA as in effect prior to the Effective Date and that remain outstanding as of the Effective Date;

(b) this Agreement (including all Exhibits attached hereto) amends, restates, replaces and supersedes in its entirety the Original CASA (including all Exhibits attached thereto) on the Effective Date and the Original CASA (including all Exhibits attached thereto) thereafter shall be of no further force and effect; and

(c) from and after the Effective Date, all references to the Original CASA contained in any other Finance Documents (including all Exhibits attached hereto) shall be deemed to refer to this Agreement and all references to any section (or subsection) of the Original CASA in any other Finance Document shall be amended to become, *mutatis mutandis*, references to the corresponding provisions of this Agreement.

[signature pages follow]

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

**SAN LUIS OBISPO REGIONAL TRANSIT
AUTHORITY,**
as Borrower

By: _____
Name: Geoff Straw
Title: Executive Director

U.S. BANK NATIONAL ASSOCIATION,
as the Collateral Agent and the Securities
Intermediary on behalf of itself and the other
Secured Parties

By: _____
Name: John Axt
Title: Vice President

PACIFIC WESTERN BANK

By: _____
Name: Christopher Baron
Title: Managing Director

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

By: _____
Name: Dr. Morteza Farajian
Title: Executive Director

EXHIBIT A

DEFINITIONS AND RULES OF INTERPRETATION

Defined Terms

"**Acceding Party**" has the meaning specified in Section 9.01.

"**Accession Agreement**" means an Accession Agreement substantially in the form attached as Exhibit D to this Agreement.

"**Account Earnings**" means the interest income and other investment earnings earned with respect to amounts deposited to any Project Account.

"**Additional Pari Passu Debt**" means additional indebtedness that the Borrower incurs after the date hereof and that is (a) equally and ratably secured by the Collateral with the PWB Loan and the TIFIA Loan, without preference, priority or distinction and (b) permitted pursuant to the terms of the Finance Documents, including the requirements for "Additional Obligations" pursuant to the TIFIA Loan Agreement.

"**Additional Pari Passu Debt Proceeds Account**" has the meaning specified in Section 5.01(b)(i).

"**Additional Pari Passu Loan Agreement**" means, for each series of Additional Pari Passu Debt, the loan agreement executed by the Borrower and the lender thereto in connection with the issuance of such Additional Pari Passu Debt.

"**Adjusted Debt Service Amount**" means the sum of the amounts described in clauses (a), (b) and (c) below:

(a) with respect to the PWB Loan, an amount on deposit in the PWB Debt Service Sub-Account equal to (i) the interest due on the PWB Loan on the next Interest Payment Date, plus (ii) (A) for any Payment Period beginning on July 1, fifty percent (50%) of the principal due on the PWB Loan on the next Principal Payment Date or (B) for any Payment Period beginning on January 1, one hundred percent (100%) of the principal due on the PWB Loan on the next Principal Payment Date, plus (iii) any fees, costs, expenses and other amounts then due and payable under the PWB Loan Agreement;

(b) with respect to the TIFIA Loan, an amount on deposit in the TIFIA Debt Service Sub-Account equal to (i) the interest due on the TIFIA Loan on the next Interest Payment Date, plus (ii) (A) for any Payment Period beginning on July 1, fifty percent (50%) of the principal due on the TIFIA Loan on the next Principal Payment Date or (B) for any Payment Period beginning on January 1, one hundred percent (100%) of the principal due on the TIFIA Loan on the next Principal Payment Date, plus (iii) any fees, costs, expenses and other amounts then due and payable under the TIFIA Loan Agreement; and

(c) with respect to any other Additional Pari Passu Debt, an amount on deposit in each applicable sub-account of the Pari Passu Debt Service Account equal to (i) the interest due on the applicable Pari Passu Debt with respect to such account on the next Interest Payment Date, plus (ii) (A) for any Payment Period beginning on a Principal Payment Date, fifty percent (50%) of the principal due on the applicable Pari Passu Debt with respect to such account on the next Principal

Payment Date or (B) for any Payment Period that does not begin on a Principal Payment Date, one hundred percent (100%) of the principal due on the applicable Pari Passu Debt with respect to such account on the next Principal Payment Date; provided that if the principal on any Pari Passu Debt is payable on a semi-annual basis, clause (ii) shall read “the principal due on the applicable Pari Passu Debt with respect to such account on the next semi-annual principal payment date for such Pari Passu Debt”, plus (iii) any fees, costs, expenses and other amounts then due and payable under the applicable Additional Pari Passu Loan Agreement with respect to such account.

"Affiliate" means, with respect to any Person, any other Person that is Controlling, Controlled by, or under common Control with such Person. For purposes of this definition, **"control"** (including its correlative meanings – "Controlling", "Controlled by" and "under common Control with") shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise).

"Agreement" has the meaning specified in the preamble.

"Authorized Representative" means the authorized representative or other authorized signatory of the Borrower or any other party hereto, as set forth in the most recently delivered Incumbency Certificate for such party.

"Bankruptcy Related Event" means, with respect to the Borrower,

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

(b) the Borrower shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official therefor or for a substantial part of the assets thereof, (ii) generally not be paying its debts as they become due unless such debts are the subject of a bona fide dispute, or become unable to pay its debts generally as they become due, (iii) fail to make two (2) consecutive payments of principal and interest due and payable on the TIFIA Loan in accordance with the provisions of Section 9 of the TIFIA Loan Agreement, (iv) make a general assignment for the benefit of creditors, (v) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition with respect to it described in clause (a) of this definition, (vi) commence a voluntary proceeding under any Insolvency Law, or file a voluntary petition seeking liquidation, reorganization, an arrangement with creditors or an order for relief under any Insolvency Law, (vii) file an answer admitting the material allegations of a petition filed against it in any proceeding referred to in the foregoing subclauses (i) through (vi), inclusive, of this clause (b), or (viii) take any action for the purpose of effecting any of the foregoing;

(c) (i) the Collateral Agent shall commence a process pursuant to which all or a substantial part of the Collateral may be sold or otherwise disposed of in a public or private sale or disposition pursuant to a foreclosure of the Liens thereon securing the Secured Obligations, or (ii) the Collateral Agent shall commence a process pursuant to which all or a substantial part of the Collateral may be sold or otherwise disposed of pursuant to a sale or disposition of such Collateral in lieu of foreclosure; or

(d) the Collateral Agent shall transfer, pursuant to directions issued by the Secured Creditors, funds on deposit in any of the Project Accounts upon the occurrence and during the continuation of an Event of Default for application to the prepayment or repayment of any principal amount of the PWB Loan, the TIFIA Loan or any other Secured Obligations other than in accordance with the provisions of the Finance Documents.

"Borrower" has the meaning specified in the recitals to this Agreement.

"Borrower Fiscal Year" means (a) as of the Effective Date, a fiscal year of the Borrower commencing on July 1 of any calendar year and ending on June 30 of the immediately succeeding calendar year or (b) such other fiscal year as the Borrower may hereafter adopt after giving thirty (30) days' prior written notice to the Secured Parties.

"Business Day" means any day other than a Saturday, a Sunday or a day on which offices of the Federal Government of the United States of America and its departments and agencies or the State of California are authorized to be closed or on which commercial banks are authorized or required by law, regulation or executive order to be closed in New York, New York, San Luis Obispo County, California or Los Angeles, California.

"Clearing Agency" has the meaning specified in Section 5.08(f).

"Co-Collateral Agent" has the meaning specified in Section 2.11(c).

"Code" means the Internal Revenue Code of 1986 and the regulations promulgated and rulings issued thereunder, each as amended from time to time, and any successor statute.

"Collateral" means all real and personal property, now owned or hereafter acquired, that is subject to the Liens granted by the Borrower under any of the Security Documents, which as of the Effective Date consists of the property described in Section 1.01.

"Collateral Agent" has the meaning specified in the preamble to this Agreement.

"Debt Service Payment Commencement Date" means the first Interest Payment Date following the initial draw on the TIFIA Loan.

"Default" means any event or circumstance that, with the giving of notice, the lapse of time, or both, would (if not cured or otherwise remedied during such time) constitute an Event of Default.

"Determination Date" means the Initial LTF Funds Deposit Date, and each January 2 and July 2 thereafter; provided, that if such day is not a Business Day, the Determination Date shall be the immediately preceding Business Day.

"Direction Notice" has the meaning specified in Section 6.03.

"Dollars", "U.S. Dollars" or "\$" means the lawful currency of the United States of America.

"Effective Date" means the date of this Agreement.

"Enforcement Action" means any action, whether by judicial proceedings or otherwise, to enforce or exercise any of the rights and remedies granted to the Collateral Agent and/or the Secured Parties

pursuant to the Finance Documents against the Collateral or the Borrower, in each case, upon the occurrence of an Event of Default.

"Event of Default" means any of the events identified as an "Event of Default" under any Finance Document.

"Farebox Bank" means each financial institution, Governmental Authority, or other entity that receives, or directs the deposit and transfer of, Farebox Revenues on behalf of the Borrower (whether based on cash receipts, credit/debit card charges, or wire transfers in connection with bulk purchases or payments that supplement subsidized rate fare collections). Initially, the Farebox Bank consists of Pacific Western Bank and San Luis Obispo County.

"Farebox Bank Irrevocable Instruction" means (a) that certain Amended and Restated Irrevocable Direction re Deposit of Farebox Revenues, dated as of September [___], 2020, among the Borrower, the Auditor/Controller/Treasurer/Tax Collector of County of San Luis Obispo, California and the other signatories thereto and (b) any irrevocable direction issued by the Borrower to a Farebox Bank and acknowledged and agreed to by such Farebox Bank from time to time in connection with the designation of any new Farebox Bank.

"Farebox Revenues" means all farebox revenues and contract service revenues collected by or on behalf of the Borrower in connection with the operation of all transit vehicles owned or leased by the Borrower, including:

- (a) revenues earned under contractual arrangements with public or private entities, either (i) for transit fares for a specified group of employees, members, or clients, or (ii) to guarantee a minimum revenue on a line operated especially for the benefit of the paying entity (e.g., an employer, shopping center, university, etc.);
- (b) cash donations made by individual passengers or community organizations in lieu of a prescribed fare;
- (c) passenger fares collected by the Borrower;
- (d) fare subsidies from a public or private entity;
- (e) local support, including passenger donations and local business contributions made to benefit employees, customers, visitors, or residents;
- (f) parking revenues used as fare subsidies; and
- (g) support from private non-profits to supplement discount or zero fares.

"FDIC" means the Federal Deposit Insurance Corporation.

"Federal Book-Entry Regulations" means (i) the United States Department of the Treasury's regulations governing "Securities" (as defined in 31 C.F.R. § 357.2) issued by the United States Treasury and maintained in the form of entries in the federal reserve banks' book-entry system known as the Treasury/Reserve Automated Debt Entry System (TRADES), as such regulations are set forth in 31 C.F.R. Part 357 and (ii) regulations analogous and substantially similar to the regulations described in clause (i) above governing any other automated book-entry system operated by the United States federal reserve

banks in which securities issued by government sponsored enterprises are issued, recorded, transferred and maintained in book-entry form.

"Finance Documents" means:

- (a) the PWB Loan Agreement;
- (b) the Notes;
- (c) the TIFIA Loan Agreement;
- (d) any Additional Pari Passu Loan Agreements;
- (e) this Agreement;
- (f) any other Security Documents; and
- (g) any other agreement, document or instrument relating to the foregoing and designated as a Finance Document in writing by the Borrower and each of the Secured Parties.

"Funds Transfer Certificate" means a certificate prepared by the Borrower in accordance with the terms of this Agreement substantially in the form of Exhibit B attached to this Agreement containing the certifications by the Borrower required by this Agreement with respect to a requested transfer of funds from a Project Account.

"GAAP" means generally accepted accounting principles as defined by the American Institute of Certified Public Accountants or such other nationally recognized professional body, in effect from time to time in the United States of America.

"Governmental Authority" means any nation, state, sovereign or government, any federal, regional, state or local government or political subdivision thereof or other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and having jurisdiction over the Person or matters in question.

"Indebtedness" of any Person means, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of property or services, (c) all obligations of such Person evidenced by notes, bonds, loan agreements, debentures or other similar instruments, (d) all obligations of such Person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) all obligations of such Person as lessee under leases that have been or should be, in accordance with GAAP, recorded as capital leases, (f) all obligations, contingent or otherwise, of such Person in respect of letters of credit, bankers' acceptances, bank guaranties, surety Pari Passu Debt or similar extensions of credit, (g) indebtedness secured by a Lien on property owned or being purchased by such Person, whether or not such indebtedness shall have been assumed by such Person or is limited in recourse and (h) all Indebtedness of others referred to in clauses (a) through (g) above and other payment obligations (collectively, **"Guaranteed Indebtedness"**) guaranteed directly or indirectly in any manner by such Person, or in effect guaranteed directly or indirectly by such Person through an agreement (i) to pay or purchase such Guaranteed Indebtedness or to advance or supply funds for the payment or purchase of such Guaranteed Indebtedness, (ii) to purchase, sell or lease (as lessee or lessor) property, or to purchase or sell services, primarily for the purpose of enabling the debtor to make payment of such Guaranteed Indebtedness

or to assure the holder of such Guaranteed Indebtedness against loss, (iii) to supply funds to or in any other manner invest in the debtor (including any agreement to pay for property or services irrespective of whether such property is received or such services are rendered) or (iv) otherwise to assure a creditor against loss.

"Indemnatee" has the meaning specified in Section 7.02.

"Initial LTF Funds Deposit Date" means the date in September 2020 on which LTF Funds are allocated to the Borrower by SLOCOG.

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

"Interest Payment Date" means (i) for the PWB Loan, each January 1 and July 1 or if any such day is not a Business Day, then the Business Day immediately succeeding such date, for so long as the PWB Loan is outstanding, commencing from the initial payment date provided in the PWB Loan Agreement, (ii) for the TIFIA Loan, each January 1 and July 1, or if any such day is not a Business Day, then the Business Day immediately succeeding such date, commencing on the Debt Service Payment Commencement Date, and (iii) for any other Secured Obligations, the date or dates on which interest is payable on such Secured Obligations as set forth in, and commencing from the initial interest payment date provided in, the documents pursuant to which such Secured Obligations were incurred.

"Law" means any federal, state, local and municipal laws, rules and regulations, orders, codes, directives, permits, approvals, decisions, decrees, ordinances or by-laws having the force of law and any common or civil law, whether adopted or enacted prior to or after the date hereof including binding court and judicial decisions having the force of law, and includes any amendment, extension or re-enactment of any of the same in force from time to time and all other instruments, orders and regulations made pursuant to statute, including those made by any Governmental Authority.

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

"LTF Funds" means Local Transportation Funds distributed by the State pursuant to the Transportation Development Act (California Government Code Section 29530 – 29536, California Public Utilities Code Section 99200 – 99408, and Title 21 California Code of Regulations Section 6600 – 6756).

"Mandatory Payments" has the meaning specified in clause "Fifth" of Section 5.03(b).

"Mandatory Prepayment Account" means the sub-account of the Revenue Account established, after the date hereof in accordance with Section 5.06(a), for the prepayment and redemption of any Secured Obligations.

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

"No Transfer Conditions" means (a) amounts on deposit in the applicable sub-accounts of the Pari Passu Debt Service Account are at least equal to the Adjusted Debt Service Amount, and (b) (i) amounts

on deposit in the TIFIA Debt Service Reserve Sub-Account are at least equal to the TIFIA Debt Service Reserve Required Balance, (ii) amounts on deposit in the PWB Debt Service Reserve Sub-Account are at least equal to the PWB Debt Service Reserve Required Balance, and (iii) amounts on deposit in each other applicable sub-account of the Pari Passu Debt Service Reserve Account are at least equal to the Pari Passu Debt Service Reserve Required Balance for such sub-account.

"No Transfer Order" has the meaning specified in Section 5.03(g).

"Notes" means the PWB Notes, the TIFIA Note and any promissory note, if any, issued by the Borrower relating to any Additional Pari Passu Loan Agreement.

"Other Revenues" means any revenues of the Borrower (other than LTF Funds allocated to the Borrower, Farebox Revenues and federal grant funds), including (a) all STA Funds allocated to the Borrower, (b) all income derived from Permitted Investments, (c) proceeds from business interruption and delay in start-up insurance policies, and (d) revenue from any lease or other contract (including advertising revenues).

"Original CASA" has the meaning specified in the recitals to this Agreement.

"Pari Passu Debt" means the PWB Loan and any Additional Pari Passu Debt.

"Pari Passu Debt Service Account" has the meaning specified in Section 5.01(a).

"Pari Passu Debt Service Reserve Account" has the meaning specified in Section 5.01(a).

"Pari Passu Debt Service Reserve Required Balance" means, at any time for a sub-account of the Pari Passu Debt Service Reserve Account established for any Additional Pari Passu Debt, the amount required to be on deposit in such sub-account as set forth in the applicable Additional Pari Passu Loan Agreement for such Additional Pari Passu Debt with respect to such sub-account.

"Pari Passu Secured Obligations" means any obligations of the Borrower incurred under or in connection with the PWB Loan Agreement or any Additional Pari Passu Loan Agreement, including all such amounts that would be owed by the Borrower but for the fact that collection or receipt of such amounts is unenforceable or not allowed due to a pending proceeding by or against the Borrower under any Insolvency Law.

"Patriot Act" has the meaning specified in Section 10.10.

"Payment Date" means each Interest Payment Date and each Principal Payment Date.

"Payment Period" means any period of six (6) months from (and including) an Interest Payment Date to (but excluding) the immediately succeeding Interest Payment Date.

"Permitted Indebtedness" means any Indebtedness to the extent permitted by the terms of the Finance Documents (including the PWB Loan Agreement prior to the termination thereof).

"Permitted Investments" means any investments to the extent permitted under each of the Finance Documents (including the PWB Loan Agreement prior to the termination thereof).

"Permitted Lien" means any Liens to the extent permitted by the Finance Documents (including the PWB Loan Agreement prior to the termination thereof).

"Permitted Subordinated Loans" means, to the extent permitted by the terms of the TIFIA Loan Agreement, the PWB Loan Agreement and, if applicable, any Additional Pari Passu Loan Agreement, unsecured Indebtedness of the Borrower.

"Person" means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

"Principal Payment Date" means (i) for the PWB Loan, each July 1, or, if such date is not a Business Day, then the Business Day immediately succeeding such date, commencing from the initial principal payment date provided in the PWB Loan Agreement, (ii) for the TIFIA Loan, each July 1, or if such day is not a Business Day, then the Business Day immediately succeeding such date, commencing July 1, 2026, and (iii) for any other Secured Obligations, the date on which principal of such Secured Obligations is due and payable as set forth in, and commencing from the initial principal payment date provided in, the documents pursuant to which such Secured Obligations were incurred.

"Proceeds" means "proceeds" as such term is defined in the UCC or under other relevant law and, in any event, shall include, but shall not be limited to, (i) any and all proceeds of, or amounts (in whatsoever form, whether cash, securities, property or other assets) received under or with respect to, any insurance, indemnity, warranty or guaranty payable to the Borrower from time to time, and claims for insurance, indemnity, warranty or guaranty effected or held for the benefit of the Borrower, in each case with respect to any of the Collateral, (ii) any and all payments (in any form whatsoever, whether cash, securities, property or other assets) made or due and payable to the Borrower from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Collateral by any Governmental Authority (or any person acting under color of Governmental Authority), and (iii) any and all other amounts (in any form whatsoever, whether cash, securities, property or other assets) from time to time paid or payable under or in connection with any of the Collateral (whether or not in connection with the sale, lease or other disposition of the Collateral).

"Project" has the meaning specified in the recitals hereinabove.

"Project Accounts" means, collectively, (a) each of the Securities Accounts and (b) each such other account specified or to be specified as being a "Project Account" in this Agreement, including any sub-accounts thereof, from time to time.

"PWB" has the meaning specified in the recitals to this Agreement.

"PWB Debt Service Reserve Required Balance" means, as of any date, an amount equal to fifty percent (50%) of the principal and interest payments on the PWB Loan due and payable during the then-current Borrower Fiscal Year.

"PWB Debt Service Reserve Sub-Account" has the meaning specified in Section 5.01(a).

"PWB Debt Service Sub-Account" has the meaning specified in Section 5.01(a).

"PWB Loan" has the meaning specified in the recitals to this Agreement.

"PWB Loan Agreement" has the meaning specified in the recitals to this Agreement.

"PWB Notes" means the promissory notes evidencing the PWB Loan that were delivered by the Borrower in accordance with the PWB Loan Agreement.

"Required Creditors" has the meaning specified in Section 6.08.

"Revenues" means (i) all LTF Funds allocated to the Borrower, (ii) all Farebox Revenues received by or on behalf of the Borrower and (iii) all Other Revenues received by or on behalf of the Borrower.

"Revenue Account" has the meaning specified in Section 5.01(a).

"Secured Creditors" means, collectively, (i) PWB, (ii) the TIFIA Lender, and (iii) any other holder of Secured Obligations.

"Secured Obligations" means (i) the Pari Passu Secured Obligations and (ii) the TIFIA Obligations.

"Secured Parties" means, collectively, the Secured Creditors and the Collateral Agent.

"Securities" means any stock, shares, partnership interests, voting trust certificates, certificates of interest or participation in any profit sharing agreement or arrangement, options, warrants, bonds, debentures, notes or other evidences of indebtedness, secured or unsecured, convertible, subordinated or otherwise, or in general any instruments commonly known as "securities" or any certificates of interest, shares or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire any of the foregoing.

"Securities Accounts" has the meaning specified in Section 5.01(a).

"Securities Intermediary" has the meaning specified in Section 5.11(a).

"Security Documents" means the collective reference to (a) this Agreement; (b) any other agreement, document or instrument hereafter entered into or delivered by the Borrower or any other Person which purports to create a Lien in favor of the Collateral Agent for the benefit of all of the Secured Parties; and (c) all UCC financing statements and other filings, recordings or registrations required by the Finance Documents to be filed or made in respect of any such Security Document.

"SLOCOG" means the San Luis Obispo Council of Governments.

"SLOCOG Irrevocable Instruction" means that certain Amended and Restated Irrevocable Direction re Deposit of LTF Funds, dated as of September [___], 2020, among the Borrower, SLOCOG and the other signatories thereto.

"STA Funds" means State Transit Assistance funds distributed by the State pursuant to the Transportation Development Act (California Government Code Section 29530 – 29536, California Public Utilities Code Section 99200 – 99408, and Title 21 California Code of Regulations Section 6600 – 6756).

"State" means the State of California.

"Taxes" means any and all present or future income, stamp, transfer, turnover and other taxes, levies, imposts, duties, charges, fees, deductions or withholdings now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, and any and all interest, penalties, claims or other liabilities arising under or relating thereto, including those on any of the Secured Parties or on payments to be made to or received by any of them from the Borrower under this Agreement.

"TIFIA Debt Service Reserve Required Balance" means, as of any date, an amount equal to fifty percent (50%) of the principal and interest payments on the TIFIA Loan due and payable during the then-current Borrower Fiscal Year.

"TIFIA Debt Service Reserve Sub-Account" has the meaning specified in Section 5.01(a).

"TIFIA Debt Service Sub-Account" has the meaning specified in Section 5.01(a).

"TIFIA Lender" has the meaning specified in the recitals to this Agreement.

"TIFIA Loan" has the meaning specified in the recitals to this Agreement.

"TIFIA Loan Agreement" has the meaning specified in the recitals to this Agreement.

"TIFIA Note" means the promissory note delivered by the Borrower in substantially the form of Exhibit A to the TIFIA Loan Agreement.

"TIFIA Obligations" means any obligations of the Borrower incurred under or in connection with the TIFIA Loan Agreement, including all such amounts that would be owed by the Borrower but for the fact that collection or receipt of such amounts is unenforceable or not allowed due to a pending proceeding by or against the Borrower under any Insolvency Law.

"Transfer Date" means the twenty-fourth (24th) day of each month (or, if such date is not a Business Day, the immediately preceding Business Day); provided, that in March, June, September and December of each Borrower Fiscal Year, the Borrower may elect to have a second Transfer Date that occurs on the first Business Day following the date on which LTF Funds are deposited to the Revenue Account in accordance with Section 5.03(a)(i) in such month.

"Treasury Regulations" means the temporary, proposed or final federal income tax regulations promulgated by the U.S. Department of the Treasury, together with the other published written guidance thereof, as applicable.

"Uniform Commercial Code" or **"UCC"** means the Uniform Commercial Code, as the same may, from time to time, be in effect in the State of New York; provided that if, with respect to any financing statement or by reason of mandatory provisions of law, any or all of the perfection, or priority of the security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof or any other Finance Document or any financing statement relating to such perfection or priority and for purposes of definitions related to such provisions.

"U.S. Government" means the United States of America and its departments and agencies.

Rules of Interpretation

1. The incorporation by reference of definitions or other terms from other agreements shall survive any termination of such agreements until this Agreement is terminated as provided in Article VIII hereof.
2. Definitions of terms shall apply equally to the singular and plural forms of the terms defined.
3. The use in this Agreement of the word "include" or "including", when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter.
4. The word "will" shall be construed to have the same meaning and effect as the word "shall".
5. A reference to a Law includes any amendment or modification to such Law, and all regulations, rulings and other Laws promulgated under such Law.
6. A reference to a Person shall be construed to include its successors and permitted assigns.
7. Except as otherwise expressly specified, all accounting terms have the meanings assigned to them by GAAP, as in effect from time to time.
8. A reference in a document to an Article, Section, Exhibit, Schedule, Annex or Appendix is to the Article, Section, Exhibit, Schedule, Annex or Appendix of such document unless otherwise indicated. Exhibits, Schedules, Annexes or Appendices to any document shall be deemed incorporated by reference in such document.
9. Any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented and/or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth in the Finance Documents).
10. The words "herein," "hereof," "hereto," "hereby," "hereunder" and other words of similar import in this Agreement refer to this Agreement as a whole and not to any particular Article, Section or other subdivision; and, if this Agreement has been amended, such words shall refer to this Agreement as so amended.
11. References to "days" means calendar days, unless the term "Business Days" shall be used. References to a time of day means such time in New York, New York, unless otherwise specified.
12. The terms lease and license shall include sub-lease and sub-license, as applicable, and as may be allowed under this Agreement, any other Finance Documents, as applicable.

13. All references in this Agreement to provisions of the UCC shall include all successor provisions under any subsequent version or amendment to the applicable UCC.
14. The term "money" or "funds" includes any cash, check, deposit, investment security or other form in which any of the foregoing are held hereunder.
15. Any reference to or defined term for any securities account or deposit account, including without limitation the Project Accounts and the Securities Accounts, shall include any subaccount thereof, and any substitute, successor (whether by renumbering or otherwise) or replacement account therefore.

EXHIBIT B

FORM OF FUNDS TRANSFER CERTIFICATE

Date: [____], [____]
Funding Date: [____], [____]

U.S. Bank National Association,
as Collateral Agent
633 W. Fifth Street, 24th Floor
Los Angeles, CA 90071
Attention: Global Corporate Trust

Re: San Luis Obispo Regional Transit Authority

Ladies and Gentlemen:

Reference is made to that certain Amended and Restated Collateral Accounts and Security Agreement, dated as of September [____], 2020 (as amended, amended and restated, supplemented or otherwise modified from time to time, the “CASA”), among the San Luis Obispo Regional Transit Authority, a California joint powers authority (the “Borrower”), Pacific Western Bank, a California state-chartered bank, as lender under the PWB Loan Agreement (including its successors and assigns, “PWB”), the United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau, in its capacity as lender under the TIFIA Loan Agreement (including its successors and assigns, the “TIFIA Lender”), U.S. Bank National Association, a national banking association, in its capacity as collateral agent on behalf of itself and the other Secured Parties (in such capacity (including its successors and assigns), the “Collateral Agent”), U.S. Bank National Association, a national banking association, in its capacity as securities intermediary (in such capacity (including its successors and assigns), the “Securities Intermediary”), and each other Secured Party that accedes to the CASA in accordance with Article IX thereto.

The undersigned is an Authorized Representative of the Borrower and is delivering this certificate (this “Funds Transfer Certificate”) pursuant to Section 5.03(b) and Section 5.09 of the CASA. Capitalized terms used and not otherwise defined herein shall have the meanings given to them (by reference or otherwise) in the CASA.

1. Revenue Account. The following transfers are requested to be made from the Revenue Account on [____], [____] (the “Funding Date”)¹ in accordance with this Funds Transfer Certificate as set forth in greater detail in Part A of the attached Schedule I, each in accordance with Section 5.03(b) of the CASA and the other provisions of the CASA:
 - (a) In accordance with priority “First” of Section 5.03(b) of the CASA, the Borrower requests that:
 - (i) [\$[____]] be withdrawn from the Revenue Account and transferred to the PWB Debt Service Sub-Account for payment of interest and/or principal on the

¹ Each Funding Date shall be a Transfer Date or with respect to funds deposited to the Revenue Account in accordance with Section 5.03(a)(iii) of the CASA, any date on which such funds are deposited into the Revenue Account.

PWB Loan and/or other fees, costs, expenses and other amounts then due and payable under the PWB Loan Agreement.]

- (ii) [\$[_____] be withdrawn from the Revenue Account and transferred to the TIFIA Debt Service Sub-Account for payment of interest and/or principal on the TIFIA Loan and/or other fees, costs, expenses and other amounts then due and payable under the TIFIA Loan Agreement.]
 - (iii) [\$[_____] be withdrawn from the Revenue Account and transferred to the *[insert name of applicable sub-account of the Pari Passu Debt Service Account]* for payment of interest and/or principal on the applicable Additional Pari Passu Debt with respect to such sub-account and/or other fees, costs, expenses and other amounts then due and payable under the applicable Additional Pari Passu Loan Agreement with respect to such sub-account.]
- (b) In accordance with priority “Second” of Section 5.03(b) of the CASA, the Borrower requests that:
- (i) [\$[_____] be withdrawn from the Revenue Account and transferred to the PWB Debt Service Reserve Sub-Account in order to satisfy the PWB Debt Service Reserve Required Balance.]
 - (ii) [\$[_____] be withdrawn from the Revenue Account and transferred to the TIFIA Debt Service Reserve Sub-Account in order to satisfy the TIFIA Debt Service Reserve Required Balance.]
 - (iii) [\$[_____] be withdrawn from the Revenue Account and transferred to the *[insert name of applicable sub-account of the Pari Passu Debt Service Reserve Account]* in order to satisfy the Pari Passu Debt Service Reserve Required Balance for such sub-account.]
- (c) [In accordance with priority “Third” of Section 5.03(b) of the CASA, the Borrower requests that, in order to satisfy the No Transfer Conditions set forth in clause (a) of the definition thereof for the next succeeding Payment Period after the current Payment Period:
- (i) [\$[_____] be withdrawn from the Revenue Account and transferred to the PWB Debt Service Sub-Account.]
 - (ii) [\$[_____] be withdrawn from the Revenue Account and transferred to the TIFIA Debt Service Sub-Account.]
 - (iii) [\$[_____] be withdrawn from the Revenue Account and transferred to the *[insert name of applicable sub-account of the Pari Passu Debt Service Account]*].]²
- (d) [In accordance with priority “Fourth” of Section 5.03(b) of the CASA, the Borrower requests that, in order to satisfy the No Transfer Conditions set forth in clause (b) of the

² To be included for any Funding Date that is a Transfer Date occurring in June or December.

definition thereof for the next succeeding Payment Period after the current Payment Period:

- (i) [\$[____]] be withdrawn from the Revenue Account and transferred to the PWB Debt Service Reserve Sub-Account.]
- (ii) [\$[____]] be withdrawn from the Revenue Account and transferred to the TIFIA Debt Service Reserve Sub-Account.]
- (iii) [\$[____]] be withdrawn from the Revenue Account and transferred to the [insert name of applicable sub-account of the *Pari Passu Debt Service Reserve Account*].]³
- (e) In accordance with priority “Fifth” of Section 5.03(b) of the CASA, the Borrower requests that \$[____] be withdrawn from the Revenue Account and transferred to the Mandatory Prepayment Account for Mandatory Payments to the applicable Secured Obligations.
- (f) In accordance with priority “Sixth” of Section 5.03(b) of the CASA, the Borrower requests that \$[____] be withdrawn from the Revenue Account and transferred to [insert name of applicable sub-account] of the Revenue Account for the payment of interest on the applicable Permitted Subordinated Loans.
- (g) In accordance with priority “Seventh” of Section 5.03(b) of the CASA, the Borrower requests that \$[____] be withdrawn from the Revenue Account and transferred to [insert name of applicable sub-account] of the Revenue Account for the payment of principal on the applicable Permitted Subordinated Loans.

The following transfers are requested to be made from the applicable Project Account set forth below on the Funding Date (or such other date as set forth in greater detail in the relevant Part(s) of the attached Schedule I) in accordance with the provisions of the CASA:

- 2. PWB Debt Service Sub-Account. In accordance with Section 5.04(b) of the CASA, the Borrower requests that \$[____] be withdrawn from the PWB Debt Service Sub-Account and applied to pay principal, accrued and unpaid interest, and any other fees, costs, expenses and other amounts due and payable on the PWB Loan, as set forth in greater detail in Part B of the attached Schedule I.
- 3. TIFIA Debt Service Sub-Account. In accordance with Section 5.04(c) of the CASA, the Borrower requests that \$[____] be withdrawn from the TIFIA Debt Service Sub-Account and applied to pay principal, accrued and unpaid interest, and any other fees, costs, expenses and other amounts due and payable on the TIFIA Loan, as set forth in greater detail in Part C of the attached Schedule I.
- 4. [____] Sub-Account of the Pari Passu Debt Service Account. In accordance with Section 5.04(d) of the CASA, the Borrower requests that \$[____] be withdrawn from the [insert name of applicable sub-account of the *Pari Passu Debt Service Account*] established for the [describe applicable Additional *Pari Passu Debt*] and applied to pay principal, accrued and

³ To be included for any Funding Date that is a Transfer Date occurring in June or December.

unpaid interest, and any other fees, costs, expenses and other amounts due and payable on such Additional Pari Passu Debt, as set forth in greater detail in Part D of the attached Schedule I.

5. PWB Debt Service Reserve Sub-Account. In accordance with Section 5.05(b) of the CASA, the Borrower requests that \$[] be withdrawn from the PWB Debt Service Reserve Sub-Account and applied to pay principal and accrued and unpaid interest due and payable on the PWB Loan that is not otherwise paid by Revenues deposited to the Revenue Account, as set forth in greater detail in Part E of the attached Schedule I.
6. TIFIA Debt Service Reserve Sub-Account. In accordance with Section 5.05(c) of the CASA, the Borrower requests that \$[] be withdrawn from the TIFIA Debt Service Reserve Sub-Account and applied to pay principal and accrued and unpaid interest due and payable on the TIFIA Loan that is not otherwise paid by Revenues deposited to the Revenue Account, as set forth in greater detail in Part F of the attached Schedule I.
7. [] Sub-Account of the Pari Passu Debt Service Reserve Account. In accordance with Section 5.05(d) of the CASA, the Borrower requests that \$[] be withdrawn from the *[insert name of applicable sub-account of the Pari Passu Debt Service Reserve Account]* established for the *[describe applicable Additional Pari Passu Debt]* and applied to pay principal and accrued and unpaid interest due and payable on such Additional Pari Passu Debt that is not otherwise paid by Revenues deposited to the Revenue Account, as set forth in greater detail in Part G of the attached Schedule I.
8. Additional Pari Passu Debt Proceeds Account.
 - (a) In accordance with Section[s] 5.01(b)(iii) [and (iv)] of the CASA, the Borrower requests that \$[] be withdrawn from the *[insert name of applicable Additional Pari Passu Debt Proceeds Account]* and transferred as set forth in greater detail in Part H of the attached Schedule I to pay costs in compliance with the applicable Additional Pari Passu Loan Agreement and the applicable provisions of the other Finance Documents relating to the incurrence of the applicable Additional Pari Passu Debt, and with respect to any future tax-exempt borrowings comprising Additional Pari Passu Debt, in compliance with the Code.
 - (b) In accordance with Section 5.01(b)[(iv)][(v)] of the CASA, the Borrower requests that \$[] be withdrawn from the *[insert name of applicable Additional Pari Passu Debt Proceeds Account]* and transferred to the *[insert name of applicable sub-account]* of the Mandatory Prepayment Account for redemption of the applicable Additional Pari Passu Debt with respect to such sub-account in accordance with the applicable Additional Pari Passu Loan Agreement, as set forth in greater detail in Part H of the attached Schedule I.
9. Mandatory Prepayment Account. In accordance with Section 5.06(c) of the CASA, the Borrower requests that \$[] be withdrawn from the Mandatory Prepayment Account and transferred to the *[insert name of applicable sub-account]* of the Mandatory Prepayment Account for prepayment and redemption of the applicable Secured Obligation, as set forth in greater detail in Part I of the attached Schedule I.
10. [] Sub-Account of the Mandatory Prepayment Account. In accordance with Section 5.06(c) of the CASA, the Borrower requests that \$[] be withdrawn from the *[insert name of applicable sub-account]* of the Mandatory Prepayment Account established for the

[*describe applicable Secured Obligations*] and transferred as set forth in greater detail in Part J of the attached Schedule I for application to the mandatory prepayment and/or mandatory redemption of such Secured Obligations.

11. [] Sub-Account of the Revenue Account. In accordance with Section 5.03(b) of the CASA, the Borrower requests that \$[] be withdrawn from the [*insert name of applicable sub-account*] of the Revenue Account established for the payment of [interest][principal] on Permitted Subordinated Loans and transferred as set forth in greater detail in Part K of the attached Schedule I for application to the payment of [interest][principal] then due and payable on such Permitted Subordinated Loans.

The undersigned, as an Authorized Representative of the Borrower, hereby certifies on behalf of the Borrower, as of the date hereof, that each withdrawal or transfer requested hereby complies with each of the applicable requirements of the CASA and each other relevant Finance Document.

[*Signature page follows*]

IN WITNESS WHEREOF, the Borrower has caused this Funds Transfer Certificate to be duly executed and delivered by an Authorized Representative of the Borrower as of the date first written above.

**SAN LUIS OBISPO REGIONAL
TRANSIT AUTHORITY,**
as the Borrower

By: _____

Name:

Title:

SCHEDULE I TO FUNDS TRANSFER CERTIFICATE

[Borrower to attach Excel spreadsheets (in .pdf format) with appropriate detail for each applicable transfer, including columns for (i) Section reference, (ii) Transfer Date, (iii) Payee/Account, (iv) Purpose, (v) Payment Date, (vi) Wiring or Other Payment Instructions and (vii) Amount, divided by Parts A through K (and sub-divided as necessary)]

Part A: Transfers from Revenue Account

Part B: Transfers from PWB Debt Service Sub-Account

Part C: Transfers from TIFIA Debt Service Sub-Account

Part D: Transfers from [] Sub-Account of the Pari Passu Debt Service Account

Part E: Transfers from PWB Debt Service Reserve Sub-Account

Part F: Transfers from TIFIA Debt Service Reserve Sub-Account

Part G: Transfers from [] Sub-Account of the Pari Passu Debt Service Reserve Account

Part H: Transfers from Additional Pari Passu Debt Proceeds Account

Part I: Transfers from Mandatory Prepayment Account

Part J: Transfers from [] Sub-Account of the Mandatory Prepayment Account

Part K: Transfers from [] Sub-Account of the Revenue Account

EXHIBIT C

INCUMBENCY CERTIFICATE

San Luis Obispo Regional Transit Authority

[____], 20[__]

I, the undersigned [*NAME*], [*TITLE*] of San Luis Obispo Regional Transit Authority (the “Borrower”), hereby certify that the following Authorized Representatives of the Borrower have been duly elected or appointed and are now acting and are qualified to sign on the Borrower’s behalf and that the specimen signatures appearing opposite the names and titles are the genuine signatures of such officers and that said elections or appointments are now in full force and effect. You are further authorized to recognize these signatures until you receive our written instructions to the contrary.

Name (Print)

Title

Signature

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, the undersigned has caused this Incumbency Certificate to be duly executed and delivered as of the date set forth above.

By:

Name:

Title:

Exhibit C-1

EXHIBIT D

FORM OF ACCESSION AGREEMENT

[Date]

To: U.S. Bank National Association,
as Collateral Agent
633 W. Fifth Street, 24th Floor
Los Angeles, CA 90071
Attention: Global Corporate Trust

Re: Amended and Restated Collateral Accounts and Security Agreement, dated as of September [], 2020 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "CASA"), among the San Luis Obispo Regional Transit Authority, a California joint powers authority (the "Borrower"), Pacific Western Bank, a California state-chartered bank, as lender under the PWB Loan Agreement (including its successors and assigns, "PWB"), the United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau, in its capacity as lender under the TIFIA Loan Agreement (including its successors and assigns, the "TIFIA Lender"), U.S. Bank National Association, a national banking association, in its capacity as collateral agent on behalf of itself and the other Secured Parties (in such capacity (including its successors and assigns), the "Collateral Agent"), U.S. Bank National Association, a national banking association, in its capacity as securities intermediary (in such capacity (including its successors and assigns), the "Securities Intermediary"), and each other Secured Party that accedes to the CASA in accordance with Article IX thereto.

Ladies and Gentlemen:

The undersigned acknowledges receipt of the CASA and agrees to be bound by and subject to the terms of the CASA in its capacity as [INSERT CAPACIT[Y][IES] OF ACCEDING PARTY]. The undersigned further agrees to the appointment of the Collateral Agent as its agent in accordance with the terms of the CASA. Capitalized terms used but not defined in this Accession Agreement have the meanings given to them (by reference or otherwise) in the CASA.

The address and fax number for notice of [ACCEDING PARTY] for the purposes of Section 10.04 (*Notices*) of the CASA is:

[INSERT ACCEDING PARTY]

[INSERT ADDRESS]

Attention: [INSERT ATTENTION PARTY]

Facsimile: [INSERT FACSIMILE NUMBER]

Telephone: [INSERT TELEPHONE NUMBER]

Email: [INSERT EMAIL]

The provisions of Section 10.05 (*Counterparts*) and Section 10.06 (*Governing Law; Consent to Jurisdiction; Waiver of Jury Trial*) of the CASA shall apply *mutatis mutandis* to this Accession Agreement as if set out in full herein.

Very truly yours,

[NAME OF ACCEDING PARTY],

as **[INSERT CAPACITY] OF ACCEDING PARTY**

By: _____

Name:

Title:

AGREED AND ACCEPTED:

U.S. BANK NATIONAL ASSOCIATION,

as Collateral Agent

By: _____

Name:

Title:

AGREED AND ACCEPTED:

**SAN LUIS OBISPO REGIONAL TRANSIT
AUTHORITY,**
as the Borrower

By: _____
Name:
Title:

cc: San Luis Obispo Transit Authority, as the Borrower
Secured Parties to the CASA (other than the Collateral Agent)

AMENDED AND RESTATED IRREVOCABLE DIRECTION RE DEPOSIT OF LTF FUNDS

This AMENDED AND RESTATED IRREVOCABLE DIRECTION RE DEPOSIT OF LTF FUNDS (this “Amended and Restated Irrevocable Direction”) is entered into this [] day of September, 2020, by and between the San Luis Obispo Regional Transit Agency, a California joint powers agency (“RTA”) and the San Luis Obispo Council of Governments, a California joint powers agency (“SLOCOG”).

RECITALS:

WHEREAS, RTA is the regional transit agency whose service area includes most of San Luis Obispo County, California; and

WHEREAS, SLOCOG receives apportionments of Local Transportation Fund sales tax revenues (“LTF Funds”) from the California Department of Tax and Fee Administration (“CDTFA”) and allocates LTF Funds to eligible claimants pursuant to the California Transportation Development Act; and

WHEREAS, RTA has been a past recipient, and anticipates being a future recipient, of LTF Funds to pay in part for the capital and operating expenses relating to providing transit service to the region; and

WHEREAS, RTA has entered into that certain Credit Agreement, dated as of July 21, 2020 with Pacific Western Bank (the “PWB Credit Agreement”) and is entering into that certain TIFIA Loan Agreement (the “TIFIA Loan Agreement”), dated as of the date hereof, with the United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau (the “TIFIA Lender”), to pay for costs relating to the construction of a new administration and transit vehicle maintenance facility in the City of San Luis Obispo, California and such loan agreements require RTA to make principal and interest payments as well as pay certain fees and expenses relating to the administration of such loan agreements (the PWB Credit Agreement and TIFIA Loan Agreement collectively referred to hereafter as the “Loan Agreements”) and pursuant to the Loan Agreements, RTA has covenanted to budget and appropriate all of its revenues, including LTF Funds, but excluding, for the TIFIA Loan Agreement, any Federal Transit Administration funds, in order to make payments when due with respect to the Loan Agreements; and

WHEREAS, RTA has entered into that certain Amended and Restated Collateral Accounts and Security Agreement (as it may be amended, amended and restated, or otherwise supplemented or modified, the “A&R CASA”) with U.S. Bank National Association, a national banking association, as collateral agent (“Collateral Agent”), that has established a revenue fund, debt service funds and debt service reserve funds that will secure the Loan Agreements and into which RTA will deposit or cause to be deposited all LTF Funds allocated to it and, subject to the A&R CASA, all farebox revenues and contract service revenues received by or on behalf of the Borrower (as defined in the A&R CASA) in connection with the operation of the transit vehicles owned or leased by the Borrower and certain other revenues of the Borrower; *provided* that no Federal Transit Administration funds shall be used to make payments in respect of the TIFIA Loan Agreement; and

WHEREAS, to provide assurances to the lenders under the Loan Agreements that sufficient revenues will be deposited with the Collateral Agent to satisfy RTA's financial obligations under the Loan Agreements, RTA is entering into this Amended and Restated Irrevocable Direction; and

WHEREAS, in connection with the PWB Credit Agreement, RTA, SLOCOG and the Collateral Agent executed that certain Irrevocable Direction re Deposit of LTF Funds, dated as of July 21, 2020 (as amended, modified or supplemented prior to the date hereof, the "Original Irrevocable Direction"); and

WHEREAS, in connection with the TIFIA Loan Agreement, RTA, SLOCOG and the Collateral Agent have agreed to amend and restate the Original Irrevocable Direction in its entirety.

NOW, therefor, in consideration of the foregoing the parties agree as follows:

1. Irrevocable Direction to Deposit LTF Funds into the Revenue Account. RTA hereby irrevocably and unconditionally directs SLOCOG to deposit, from and after the Initial LTF Funds Deposit Date (as defined in the A&R CASA), as and when allocated to RTA but no less frequently than on a quarterly basis, all LTF Funds received by SLOCOG, from the CDTFA (or any successor or alternate public agency or governing body that may in the future apportion, direct or transfer or otherwise administer funds available pursuant to the California Transportation Development Act), that are allocated to RTA into the revenue account described below (the "Revenue Account"), which account is held by the Collateral Agent and governed by the terms of the A&R CASA:

Account Number: 235002000

2. Acknowledgement. SLOCOG hereby (a) acknowledges and agrees to the RTA's irrevocable direction to deposit all LTF Funds allocated to RTA into the Revenue Account and (b) covenants to comply with the requirements of Section 1 above. Except for deposits into the Revenue Account, SLOCOG shall not transfer, allocate or otherwise provide LTF Funds allocable to the RTA to any other person or entity.

3. Term. This Amended and Restated Irrevocable Direction shall be in force and effect until all outstanding financial obligations of RTA under the Loan Agreements have been irrevocably paid in full in cash. Upon such irrevocable payment in full of RTA's financial obligations, the Collateral Agent shall deliver a notice of such payment to SLOCOG.

4. Amendment. SLOCOG acknowledges that the directions set forth herein are irrevocable. This Amended and Restated Irrevocable Direction shall not be amended, modified, supplemented, replaced or revoked (including by waiver of any provision of this Amended and Restated Irrevocable Direction) without the prior written consent of the TIFIA Lender.

5. Third-Party Beneficiaries. The TIFIA Lender and the other lenders under the Loan Agreements are third-party beneficiaries of this Amended and Restated Irrevocable Direction with respect to all rights, benefits, remedies, claims and other privileges of RTA with respect to this Amended and Restated Irrevocable Direction and each has all of the rights and benefits of a third-party beneficiary, including an independent right of action to enforce such rights, benefits, remedies, claims and other privileges directly, without the consent or joinder of any other person. Except as set forth in this Section 5, nothing herein express or implied shall give to any person any benefit or any legal or equitable right, remedy, or claim hereunder.

6. Counterparts. This Amended and Restated Irrevocable Direction may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Amended and Restated Irrevocable Direction. Electronic delivery of an executed counterpart of a signature page of this Amended and Restated Irrevocable Direction shall be effective as delivery of an original executed counterpart of this Amended and Restated Irrevocable Direction and any printed or copied versions of any signature page so delivered shall have the same force and effect as an originally signed version of such signature page. Signatures for this Amended and Restated Irrevocable Direction may be made by electronic means, if accompanied by an email, contemporaneous or otherwise, confirming the use of such means.

7. Governing Law. This Amended and Restated Irrevocable Direction shall be governed by and construed in accordance with the laws of the State of California.

8. Amendment and Restatement. It is the intention of each of the parties hereto that: (a) this Amended and Restated Irrevocable Direction does not constitute a novation of the obligations of the applicable parties under the Original Irrevocable Direction as in effect prior to the date hereof; (b) this Amended and Restated Irrevocable Direction amends, restates, replaces and supersedes in its entirety the Original Irrevocable Direction on the date hereof and the Original Irrevocable Direction hereafter shall be of no further force and effect; and (c) from and after the date hereof, all references to the Original Irrevocable Direction contained in any other Finance Documents (as defined in the A&R CASA) shall be deemed to refer to this Amended and Restated Irrevocable Direction and all references to any section (or subsection) of the Original Irrevocable Direction in any other Finance Document shall be amended to become, mutatis mutandis, references to the corresponding provisions of this Amended and Restated Irrevocable Direction.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Amended and Restated Irrevocable Direction to be effective as of the date first written above.

San Luis Obispo Regional Transit Agency

San Luis Obispo Council of Governments

Fred Strong
President of the RTA Board of Directors

Fred Strong
President of the SLOCOG Board of Directors

ATTEST:

ATTEST:

Geoff Straw
RTA Executive Director

Peter Rodgers
SLOCOG Executive Director

APPROVED AS TO FORM AND LEGAL EFFECT:

APPROVED AS TO FORM AND LEGAL EFFECT:

Rita Neal
County Counsel

Rita Neal
County Counsel

By: _____
Nina Negranti
RTA Counsel

By: _____
Nina Negranti
SLOCOG Counsel

Dated: _____
(Original signature in BLUE ink)

Dated: _____
(Original signature in BLUE ink)

Acknowledged and agreed to:

U.S. Bank National Association,
as Collateral Agent

By: _____
Name: John Axt
Title: Vice President

AMENDED AND RESTATED IRREVOCABLE DIRECTION RE DEPOSIT OF FAREBOX REVENUES

This AMENDED AND RESTATED IRREVOCABLE DIRECTION RE DEPOSIT OF FAREBOX REVENUES (this “Amended and Restated Irrevocable Direction”) is entered into this [] day of September, 2020, by and between the San Luis Obispo Regional Transit Agency, a California joint powers agency (“RTA”) and the Auditor/Controller/Treasurer/Tax Collector of County of San Luis Obispo, California (the “ACTTC”).

RECITALS:

WHEREAS, RTA is the regional transit agency whose service area includes most of San Luis Obispo County, California; and

WHEREAS, RTA receives farebox revenues and contract service revenues in connection with the operation of the transit vehicles owned or leased by RTA, including (a) revenues earned under contractual arrangements with public or private entities, either (i) for transit fares for a specified group of employees, members, or clients, or (ii) to guarantee a minimum revenue on a line operated especially for the benefit of the paying entity (e.g., an employer, shopping center, university, etc.); (b) cash donations made by individual passengers or community organizations in lieu of a prescribed fare; (c) passenger fares collected by RTA; (d) fare subsidies from a public or private entity; (e) local support, including passenger donations and local business contributions made to benefit employees, customers, visitors, or residents; (f) parking revenues used as fare subsidies; and (g) support from private non-profits to supplement discount or zero fares (collectively, “Farebox Revenues”); and

WHEREAS, RTA has entered into separate services agreements with the ACTTC for RTA’s 2019-2020 fiscal year and for RTA’s 2020-2021 fiscal year, in each case, pursuant to which the ACTTC provides accounting services to RTA, including maintaining RTA’s revenues, including Farebox Revenues, in a ACTTC-held bank account with Pacific Western Bank (“Account Bank”), and directing the deposit and transfer of such RTA revenues on behalf of RTA, and RTA anticipates entering into similar services agreements with the ACTTC in the future; and

WHEREAS, RTA has entered into that certain Credit Agreement, dated as of July 21, 2020 with Pacific Western Bank (the “PWB Credit Agreement”) and is entering into that certain TIFIA Loan Agreement (the “TIFIA Loan Agreement”), dated as of the date hereof, with the United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau (the “TIFIA Lender”), to pay for costs relating to the construction of a new administration and transit vehicle maintenance facility in the City of San Luis Obispo, California and such loan agreements require RTA to make principal and interest payments as well as pay certain fees and expenses relating to the administration of such loan agreements (the PWB Credit Agreement and TIFIA Loan Agreement collectively referred to hereafter as the “Loan Agreements”) and pursuant to the Loan Agreements, RTA has covenanted to budget and appropriate all of its revenues, including Farebox Revenues, but excluding, for the TIFIA Loan Agreement, any Federal Transit Administration funds, in order to make payments when due with respect to the Loan Agreements; and

WHEREAS, RTA has entered into that certain Amended and Restated Collateral Accounts and Security Agreement (as it may be amended, amended and restated, or otherwise supplemented or modified, the

“A&R CASA”) with U.S. Bank National Association, a national banking association, as collateral agent (“Collateral Agent”), that has established a revenue fund, debt service funds and debt service reserve funds that will secure the Loan Agreements and into which RTA will deposit or cause to be deposited all Local Transportation Fund sales tax revenues allocated to it and, subject to the A&R CASA, all Farebox Revenues and certain other revenues of the Borrower (as defined in the A&R CASA); *provided* that no Federal Transit Administration funds shall be used to make payments in respect of the TIFIA Loan Agreement; and

WHEREAS, to provide assurances to the lenders under the Loan Agreements that sufficient revenues will be deposited with the Collateral Agent to satisfy RTA’s financial obligations under the Loan Agreements, RTA is entering into this Amended and Restated Irrevocable Direction; and

WHEREAS, in connection with the PWB Credit Agreement, RTA, ACTTC, the Collateral Agent and the Account Bank executed that certain Irrevocable Direction re Deposit of Farebox Revenues, dated as of July 21, 2020 (as amended, modified or supplemented prior to the date hereof, the “Original Irrevocable Direction”); and

WHEREAS, in connection with the TIFIA Loan Agreement, RTA, ACTTC, the Collateral Agent and the Account Bank have agreed to amend and restate the Original Irrevocable Direction in its entirety.

NOW, therefor, in consideration of the foregoing the parties agree as follows:

1. Irrevocable Direction to Deposit Farebox Revenues into the Revenue Account. RTA hereby irrevocably and unconditionally directs the ACTTC to deposit, from and after the Initial LTF Funds Deposit Date (as defined in the A&R CASA), on the twenty-third (23rd) day of each month (or, if such date is not a Business Day, the immediately preceding Business Day), all Farebox Revenues received by or on behalf of RTA on or after the twenty-third (23rd) day of the immediately preceding month (or, if such date is not a Business Day, the immediately preceding Business Day) into the revenue account described below (the “Revenue Account”), which account is held by the Collateral Agent and governed by the terms of the A&R CASA:

Account Number: 235002000;

provided that if at any time the ACTTC receives a notice in writing from the Collateral Agent that no transfer of Farebox Revenues to the Revenue Account is required for the remainder of the current Payment Period (as defined below) (a “No Transfer Order”), the ACTTC shall not be required to deposit Farebox Revenues into the Revenue Account from the date of receipt of such No Transfer Order until the end of the current Payment Period. For the purposes of this Amended and Restated Irrevocable Direction, the following capitalized terms shall have the definitions given below:

(a) “Payment Period” means any period of six (6) months from (and including) a Semi-Annual Payment Date to (but excluding) the immediately succeeding Semi-Annual Payment Date.

(b) “Semi-Annual Payment Date” means each January 1 and July 1, or if any such day is not a Business Day, then the Business Day immediately succeeding such date.

(c) “Business Day” means any day other than a Saturday, a Sunday or a day on which offices of the Federal Government of the United States of America and its departments and agencies or the State of California are authorized to be closed or on which commercial banks are authorized or required by

law, regulation or executive order to be closed in New York, New York, San Luis Obispo County, California or Los Angeles, California.

2. Acknowledgement. The ACTTC hereby (a) acknowledges and agrees to the RTA's irrevocable direction to deposit all Farebox Revenues received by or on behalf of RTA into the Revenue Account, (b) acknowledges and agrees that this Amended and Restated Irrevocable Direction is the only direction or authorization required from RTA to permit the deposit of Farebox Revenues into the Revenue Account by the ACTTC under any accounting services agreement between RTA and the ACTTC that is currently in effect or that may be executed in the future, and (c) covenants to take all actions necessary to comply with the requirements of Section 1 above, including directing the Account Bank to transfer Farebox Revenues from a ACTTC-held account into the Revenue Account. During any time when the ACTTC is required to deposit Farebox Revenues into the Revenue Account pursuant to Section 1 above, the ACTTC shall not withdraw or transfer, or permit the withdrawal or transfer of, Farebox Revenues for any purpose other than the transfer to the Revenue Account.

3. Term. This Amended and Restated Irrevocable Direction shall be in force and effect until all outstanding financial obligations of RTA under the Loan Agreements have been irrevocably paid in full in cash. Upon such irrevocable payment in full of RTA's financial obligations, the Collateral Agent shall deliver a notice of such payment to the ACTTC.

4. Amendment. The ACTTC acknowledges that the directions set forth herein are irrevocable. This Amended and Restated Irrevocable Direction shall not be amended, modified, supplemented, replaced or revoked (including by waiver of any provision of this Amended and Restated Irrevocable Direction) without the prior written consent of the TIFIA Lender.

5. Third-Party Beneficiaries. The TIFIA Lender and the other lenders under the Loan Agreements are third-party beneficiaries of this Amended and Restated Irrevocable Direction with respect to all rights, benefits, remedies, claims and other privileges of RTA with respect to this Amended and Restated Irrevocable Direction and each has all of the rights and benefits of a third-party beneficiary, including an independent right of action to enforce such rights, benefits, remedies, claims and other privileges directly, without the consent or joinder of any other person. Except as set forth in this Section 5, nothing herein express or implied shall give to any person any benefit or any legal or equitable right, remedy, or claim hereunder.

6. Counterparts. This Amended and Restated Irrevocable Direction may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Amended and Restated Irrevocable Direction. Electronic delivery of an executed counterpart of a signature page of this Amended and Restated Irrevocable Direction shall be effective as delivery of an original executed counterpart of this Amended and Restated Irrevocable Direction and any printed or copied versions of any signature page so delivered shall have the same force and effect as an originally signed version of such signature page. Signatures for this Amended and Restated Irrevocable Direction may be made by electronic means, if accompanied by an email, contemporaneous or otherwise, confirming the use of such means.

7. Governing Law. This Amended and Restated Irrevocable Direction shall be governed by and construed in accordance with the laws of the State of California.

8. Amendment and Restatement. It is the intention of each of the parties hereto that: (a) this Amended and Restated Irrevocable Direction does not constitute a novation of the obligations of the applicable parties under the Original Irrevocable Direction as in effect prior to the date hereof; (b) this Amended and Restated Irrevocable Direction amends, restates, replaces and supersedes in its entirety the Original Irrevocable Direction on the date hereof and the Original Irrevocable Direction hereafter shall be of no further force and effect; and (c) from and after the date hereof, all references to the Original Irrevocable Direction contained in any other Finance Documents (as defined in the A&R CASA) shall be deemed to refer to this Amended and Restated Irrevocable Direction and all references to any section (or subsection) of the Original Irrevocable Direction in any other Finance Document shall be amended to become, mutatis mutandis, references to the corresponding provisions of this Amended and Restated Irrevocable Direction.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Amended and Restated Irrevocable Direction to be effective as of the date first written above.

San Luis Obispo Regional Transit Agency

Auditor/Treasurer/Tax Collector of County of
San Luis Obispo, California

Fred Strong
President of the RTA Board of Directors

James Hamilton
Auditor-Controller-Treasurer-Tax Collector

ATTEST:

Geoff Straw
RTA Executive Director

APPROVED AS TO FORM AND LEGAL EFFECT:

APPROVED AS TO FORM AND LEGAL EFFECT:

Rita Neal
County Counsel

Rita Neal
County Counsel

By: _____
Nina Negranti
RTA Counsel

By: _____
Deputy County Counsel

Dated: _____
(Original signature in BLUE ink)

Dated: _____
(Original signature in BLUE ink)

Acknowledged and agreed to:

U.S. Bank National Association,
as Collateral Agent

By: _____

Name: John Axt

Title: Vice President

Acknowledged and agreed to:

Pacific Western Bank,
as Account Bank

By: _____

Name: Christopher Baron

Title: Managing Director

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San Luis Obispo Regional Transit Authority

Executive Committee Meeting

Minutes 06/03/2020

Draft C-1

Members Present: Fred Strong, City of Paso Robles, **President**
Ed Waage, City of Pismo Beach
John Peschong, District 1 Supervisor, **Vice President**

Members Absent: None

Staff Present: Geoff Straw, Executive Director
Chelsea Sperakos, Administrative Assistant

Call Meeting to Order, Roll Call

Public Comment: The San Luis Obispo Regional Transit Authority Executive Committee reserves this portion of the agenda for members of the public to address any items not on the agenda and within the jurisdiction of the Committee. Comments are limited to three minutes per speaker. The Committee will listen to all communication, but in compliance with the Brown Act, will not take any action on items that are not on the agenda.

There was no public comment.

1. Information Items

A-1 Executive Director's Report (Verbal; Receive)

Mr. Geoff Straw stated that Mr. Andy Wyly is the new Maintenance Manager and started this week.

A-2 Update on RTA Response to COVID-19 Pandemic (Verbal; Receive)

Mr. Straw stated that ridership has increased in the last two weeks. A small cash fare of \$0.50 for regular riders and 0.25 for discounted riders has been implemented. This is to discourage sheltering on buses. The schedule will return to hourly services on June 28th. The agency is planning on returning to full fares when all the pass outlets are open, most likely two weeks after the last city opens up. Bus passes will be available via mail, ticket vending machine, and Token Transit. Staff is working to solve issue of minimal fare with agencies such as DSS. Public Health issued a mask ordinance on public transit until the end of July in Santa Barbara County, and RTA is asking SLO County Public Health to consider adopting this. There could be

discouragement on ride share services. The agency will continue to implement sanitizing systems. After June 28th, the agency will no longer have the COVID-19 administrative leave.

A-3 Update on Rebid for Bus Maintenance Facility Construction Services (Verbal; Receive)

Mr. Straw stated that construction bids are due June 4th at 2 PM. The subcontractor bids have slowed the bid process. Staff has worked closely with previous bidders and new bidders to make sure there is no future bid protest.

2. Action Items--None

3. Consent Items

C-1 Executive Committee Meeting Minutes of April 8, 2020 (Approve)

Vice President John Peschong made a motion to approve item C-1 and **Mr. Ed Waage** seconded the motion. The motion passed unanimously.

July 8, 2020 Draft RTA Board Agenda: The Executive Committee is asked to review and comment on the proposed agenda items.

A. Information Items

A-1 Executive Director's Report (Receive)

B. Action Items

B-1 Approve TIFIA Loan Agreement for Construction of 253 Elks Lane

(Approve) Note: this item may be discussed at a Special June 15, 2020 meeting

C. Consent Items

C-1 Executive Committee Meeting Minutes of April 8, 2020 (Information)

C-2 RTA Board Meeting Minutes of May 6, 2020 (Approve)

C-3 Special RTA Board Meeting Minutes of May 22, 2020 (Approve)

C-4 Paso Robles Bus Parking Yard Mitigations Monitoring Report (Receive)

Next RTA Executive Committee Meeting: August 12, 2020

Respectfully Submitted,

Acknowledged by,

Chelsea Sperakos
Administrative Assistant

Fred Strong
RTA President 2020

DRAFT
SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY
BOARD MEETING MINUTES OF JULY 8, 2020
C-2

BOARD MEMBERS PRESENT:

DEBBIE ARNOLD, FIFTH DISTRICT, COUNTY OF SAN LUIS OBISPO
LYNN COMPTON, FOURTH DISTRICT, COUNTY OF SAN LUIS OBISPO
BRUCE GIBSON, SECOND DISTRICT, COUNTY OF SAN LUIS OBISPO
JOHN PESCHONG, FIRST DISTRICT, COUNTY OF SAN LUIS OBISPO (Vice President)
KAREN BRIGHT, CITY OF GROVER BEACH
ROBERT DAVIS, CITY OF MORRO BAY
JIMMY PAULDING, CITY OF ARROYO GRANDE
ANDY PEASE, CITY OF SAN LUIS OBISPO
HEATHER MORENO, CITY OF ATASCADERO
FRED STRONG, CITY OF PASO ROBLES (President)
ED WAAGE, CITY OF PISMO BEACH

BOARD MEMBERS ABSENT:

ADAM HILL, THIRD DISTRICT, COUNTY OF SAN LUIS OBISPO

STAFF PRESENT:

GEOFF STRAW, EXECUTIVE DIRECTOR
NINA NEGRANTI, SAN LUIS OBISPO COUNTY COUNSEL
CHELSEA SPERAKOS, ADMINISTRATIVE ASSISTANT

CALL TO ORDER AND ROLL CALL: President Fred Strong called the meeting via teleconference to order at 8:34 AM and roll call was taken. A quorum was present.

PUBLIC COMMENT: The Board reserves this portion of the agenda for members of the public to address the San Luis Obispo Regional Transit Authority Board on any items not on the agenda and within the jurisdiction of the Board. Comments are limited to three minutes per speaker. The Board will listen to all communication, but in compliance with the Brown Act, will not take any action on items that are not on the agenda.

There was no public comments submitted.

A. INFORMATION AGENDA

A-1 Executive Director's Report (Receive)

Mr. Geoff Straw stated that RTA has been taking steps since the pandemic started. Governor Newsom signed AB90 on June 29. AB90 provides temporary legislative relief from TDA financial penalties, including suspension of LTF farebox recovery ratio requirements, and suspension of penalties under STA when operating costs increase more than CPI. RTA received \$1.3M in CARES Act funds from the City of

Santa Maria UZA, which will be utilized for operations and capital funding. Additional steps have been taken since what was reported at the May board meeting. New policies that have been implemented are face coverings required on buses and at bus stops, interim cash fare (50¢ regular, 25¢ discounted), return to front door loading, temporary curtains installed, permanent Plexiglas barriers on order, and on-board hand sanitizing gel. RTA will return to full fare 2 weeks after all the city halls reopen. The bus operator bid shake up will happen on June 15th, for the ramp-up to hourly service schedule on June 28th. This will be a modified regular service: weekday hourly service without express trips and SoCo Transit/Paso Express on regular service levels. Staff will change the schedule if there is demand for service. The COVID-19 administrative leave program ended June 29. Effective June 28, all employees are required to use an RTA-provided digital oral thermometer to check temperatures prior to reporting to work.

RTA has one new bus operator in service and one candidate in training. Nine candidates are in the background check/permitting process. On May 17, the downtown SLO Transit Center improvements went live. Marketing is focused on COVID-19 service changes, fare and policy changes and rider/employee updates. Staff decided to cancel the new facility groundbreaking ceremony due to COVID-19 concerns. Ridership through end of May 2020 has shown the following results: fixed-route has 24.9% decline compared to last year with only 3.1% decline before COVID-19, and a 60% decline from March to May 2020. Runabout has 16% decline, 2.7% decline pre-pandemic, and also 60% decline from March to May 2020. Budget results have yielded that non-capital expenses are on budget, administrative costs are slightly above budget primarily due to increased professional technical services line-item, and service delivery costs are under budget with low fuel costs and slightly reduced paid staff hours due to COVID-19.

Questions:

President Strong stated given that SLO County is on the state's watch list, are we staying flexible on fare and route changes?

Mr. Straw stated that there was a confirmed second case of COVID-19, and staff is meeting every day to respond to changing circumstances.

B. ACTION AGENDA

B-1 Financing of New Bus Maintenance Facility (Approve)

Mr. Straw stated that the existing RTA is a leased property, and the lease ends February 2022. The new bus maintenance facility will be administration headquarters and used for current and expanded services. On-site storm water collection can be used to expand if needed. Total cost of construction is \$22,645,088. Plan A for financing this project is to execute loan financings. The TIFIA loan and the private PacWest Bank Loan will cover the cost in total. Plan B if TIFIA falls through is to sell COPs to the public. RTA is the first project to apply for the Rural Project Initiative through TIFIA. The loan has a term up to 35 years at a rate of 50% of the US Treasury rate. This is a fixed cost. The government will pay for all application and loan fees. The PacWest loan is a bridged loan. Borrowing cost is 3%. PacWest loan would be repaid first due to the higher interest rate. Supervisor Debbie Arnold assisted in keeping the process with TIFIA moving with her inquiries at Washington, DC. At the September Board meeting, RTA expects to approve the TIFIA loan. Staff recommendation is:

1. Approve resolution: a. Approving the term sheet from Pacific Western Bank to provide financing for the construction of a new Bus Maintenance Facility project. b. Authorizing the Executive Director, in coordination with County Counsel, to negotiate and execute credit and Security Agreement and collateral accounts and security agreement (CASA)

2. Approve the Irrevocable Direction RE Deposit of LTF Funds (Attachment E) between the RTA and SLOCOG.
3. Approve the Irrevocable Direction RE Deposit of Farebox Revenue (Attachment F) between the RTA and the County of San Luis Obispo Auditor/Controller/Treasurer/Tax Collector.

Questions:

Ms. Debbie Arnold commended the work of Mr. Straw and Mr. Pete Rodgers, and coming up with the idea of purchasing the property with CAPLSO and RTA. Staff has been working hard to make it happen.

Ms. Debbie Arnold made a motion to approve agenda item B-1 (1. approve resolution regarding Pacific West term sheet, credit and security agreement, collateral accounts and security agreement), and **Vice President John Peschong** seconded the motion. The motion passed unanimously via roll call vote as follows:

<u>BOARD MEMBER</u>	<u>YES</u>	<u>NO</u>	<u>ABSENT</u>
DEBBIE ARNOLD	X		
LYNN COMPTON	X		
BRUCE GIBSON	X		
ADAM HILL			X
JOHN PESCHONG (Vice President)	X		
ROBERT DAVIS	X		
KAREN BRIGHT	X		
JIMMY PAULDING	X		
ANDY PEASE	X		
HEATHER MORENO	X		
FRED STRONG (President)	X		
ED WAAGE	X		

Ms. Debbie Arnold made a motion to approve agenda item B-1 (2. Direction of LTP funds between RTA and SLOCOG), and **Ms. Heather Moreno** seconded the motion. The motion passed unanimously via roll call vote as follows:

<u>BOARD MEMBER</u>	<u>YES</u>	<u>NO</u>	<u>ABSENT</u>
DEBBIE ARNOLD	X		
LYNN COMPTON	X		
BRUCE GIBSON	X		
ADAM HILL			X
JOHN PESCHONG (Vice President)	X		
ROBERT DAVIS	X		
KAREN BRIGHT	X		
JIMMY PAULDING	X		
ANDY PEASE	X		
HEATHER MORENO	X		
FRED STRONG (President)	X		
ED WAAGE	X		

Ms. Debbie Arnold made a motion to approve agenda item B-1 (3. Approve direction of farebox revenue between the RTA and the County of San Luis Obispo Auditor/Controller/Treasurer/Tax Collector), and **Ms. Andy Pease** seconded the motion. The motion passed unanimously via roll call vote as follows:

<u>BOARD MEMBER</u>	<u>YES</u>	<u>NO</u>	<u>ABSENT</u>
DEBBIE ARNOLD	X		
LYNN COMPTON	X		
BRUCE GIBSON	X		
ADAM HILL			X
JOHN PESCHONG (Vice President)	X		
ROBERT DAVIS	X		
KAREN BRIGHT	X		
JIMMY PAULDING	X		
ANDY PEASE	X		
HEATHER MORENO	X		
FRED STRONG (President)	X		
ED WAAGE	X		

B-2 Awarding the Contract for the Construction of the RTA Bus Maintenance Facility (Approve)

Mr. Straw stated that three bids were received by the June 4th rebid deadline from Specialty, Newton and Katch Construction. Katch's bid was determined non responsive for failing to submit follow up documents. RTA responded to bid protest by Newton. Specialty Construction is deemed the low responsive bidder and the price is reasonable. Staff recommendation would be to authorize RTA to execute the agreement. There are missed deadline penalty fees. Upon completion of construction, staff will report back to the board, and the board provides certificate of construction. The construction crew can mobilize in 10 days.

Ms. Debbie Arnold made a motion to approve agenda item B-2, and **Ms. Moreno** seconded the motion. The motion passed unanimously via roll call vote as follows:

<u>BOARD MEMBER</u>	<u>YES</u>	<u>NO</u>	<u>ABSENT</u>
DEBBIE ARNOLD	X		
LYNN COMPTON	X		
BRUCE GIBSON	X		
ADAM HILL			X
JOHN PESCHONG (Vice President)	X		
ROBERT DAVIS	X		
KAREN BRIGHT	X		
JIMMY PAULDING	X		
ANDY PEASE	X		
HEATHER MORENO	X		
FRED STRONG (President)	X		
ED WAAGE	X		

C. CONSENT AGENDA: (Roll Call Vote) the following items are considered routine and non-controversial by staff and will be approved by one motion if no member of the RTA or public wishes an item be removed. If discussion is desired by anyone, the item will be removed from the consent agenda

and will be considered separately. Questions of clarification may be made by RTA Board members, without the removal of the item from the Consent Agenda. Staff recommendations for each item are noted following the items.

C-1 RTA Executive Committee Meeting Minutes of April 8, 2020 (Information)

C-2 RTA Board Meeting Minutes of May 6, 2020 (Approve)

C-3 RTA Board Meeting Minutes of May 22, 2020 (Approve)

C-4 RTA Board Meeting Minutes of June 3, 2020 (Approve)

C-5 Paso Robles Bus Parking Yard Mitigations Monitoring Report (Receive)

C-6 Declare Vehicles Surplus (Approve)

Questions:

Mr. Straw stated that staff were unable to get the real estimate of mileage for bus #638.

Ms. Bright asked what year were buses made and how are the buses are surplus?

Mr. Straw answered that the buses were made in 2000/1999, and RTA has contracted with an auctioneer.

Ms. Moreno made a motion to approve consent agenda items C1-C6, and **Ms. Bright** seconded the motion. The motion passed unanimously via roll call vote as follows:

<u>BOARD MEMBER</u>	<u>YES</u>	<u>NO</u>	<u>ABSENT</u>
DEBBIE ARNOLD	X		
LYNN COMPTON	X		
BRUCE GIBSON	X		
ADAM HILL			X
JOHN PESCHONG (Vice President)	X		
ROBERT DAVIS	X		
KAREN BRIGHT	X		
JIMMY PAULDING	X		
ANDY PEASE	X		
HEATHER MORENO	X		
FRED STRONG (President)	X		
ED WAAGE	X		

D. BOARD MEMBER COMMENTS

Ms. Bright asked for an update on the driver that was attacked.

Mr. Straw stated that the driver's nose was broken but he is back at work, and staff has offered him and other drivers the EAP; he also thanked the SLOPD and SLO Library for their cooperation in catching the offender.

President Strong stated he had meetings for highways and other programs at the national level.

Next regularly-scheduled RTA Board meeting on September 2, 2020

E. ADJOURNMENT

The meeting was adjourned at 9:32 AM.

Respectfully Submitted,

Acknowledged by,

Chelsea Sperakos, Administrative Assistant

Fred Strong, RTA President 2020

**SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY
SEPTEMBER 2, 2020
STAFF REPORT**

AGENDA ITEM: C-3

TOPIC: Amendment to Agreement with Kitchell

PRESENTED BY: Geoff Straw, Executive Director

STAFF RECOMMENDATION: Authorize Executive Director Execute Amendment #2

BACKGROUND/DISCUSSION:

Working with our construction management consultant, the RTA published an Invitation for Bids to construct the new Bus Maintenance Facility project on March 6, 2020. However, due to errors by both bidders, the RTA Board rejected both bids and instructed staff to rebid construction. Staff is presenting an Add Service Request (ASR) for costs incurred by Kitchell CEM to help us rebid the construction.

As shown in the attached Amendment #2 and accompanying Additional Services Fee Proposal, these additional services require an additional \$12,825. The specific dates under the Term section also amend the underlying Agreement. The work has already been completed.

Staff Recommendation

Staff requests the Board's concurrence to authorize the Executive Director to execute Amendment #2 to the Agreement with Kitchell for construction rebidding services.

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Amendment No. 2:

It is agreed that this amendment to the **Agreement No. 20-02** executed on **January 8, 2020** to perform construction management services for the **New Bus Maintenance Facility**, between the San Luis Obispo Regional Transit Authority (Owner) and Kitchell CEM, Inc. (Consultant) shall be an additional amount of **\$12,825** to perform services described herein.

1. **SERVICES.** Perform services during re-bid of the project as follows: 1) revisions to the front end documents to incorporate changes from the initial bidding RFI's, addenda, supplemental information, and technical specification changes; 2) posting of the rebid documents to the Kitchell FTP site and the SLO Builders exchange; 3) GC and subcontractor outreach; 4) coordination of rebid RFI's with Stantec; 5) creation and issuance of rebid Addendum A; 6) participation in the rebid opening; 7) verification of subcontractor licensing and DIR registration; and 8) review of the rebid protest from Newton Construction. Refer to the additional services proposal dated July 10, 2020, attached.
2. **COMPENSATION.** Kitchell shall be compensated \$12,825 for actual time expended to perform the services described herein.
3. **TERM.** The term of the Agreement shall be adjusted as follows:
 - 3.1. Preconstruction/Bidding Phase services shall be adjusted from 16 weeks to 27 weeks and 5 days concluding on July 20, 2020.
 - 3.2. Construction Phase services duration shall remain unchanged at 83 weeks and commence on the date of the Contractor's Notice to Proceed of July 21, 2020.
 - 3.3. Closeout Phase services duration shall remain unchanged at eight weeks and follow construction phase services.
 - 3.4. Based on the above durations, services shall conclude by April 20, 2022.

IN WITNESS WHEREOF, the Owner and the Consultant have executed this Agreement as of the date set forth below.

"Consultant"
Kitchell CEM, Inc.

"Owner"
San Luis Obispo Regional Transit Authority

By: _____
Wendy Cohen
President

By: _____
Geoff Straw
Executive Director

Date: _____

Date: _____



July 10, 2020

Mr. Geoff Straw, Project Manager
San Luis Obispo Regional Transit Authority
179 Cross Street
San Luis Obispo, CA 93401

**Re: Additional Services Fee Proposal - RTA Bus Maintenance Facility
Project Rebid**

Dear Mr. Straw:

Although it took two tries, congratulations on awarding a construction contract to a responsive, responsible bidder well under the project budget!

Attached is our additional services proposal for the work performed during the project rebid. The work included: 1) revisions to the front end documents to incorporate changes from the initial bidding RFI's, addenda, supplemental information, and technical specification changes; 2) posting of the rebid documents to the Kitchell FTP site and the SLO Builders exchange; 3) GC and subcontractor outreach; 4) coordination of rebid RFI's with Stantec; 5) creation and issuance of rebid Addendum A; 6) participation in the rebid opening; 7) verification of subcontractor licensing and DIR registration; and 8) review of the rebid protest from Newton Construction.

A breakdown of the hours for Tully Wyatt, Ryan Stefanek, and Sarah Maloney are attached to the proposal representing at total value of \$12,825.00

We appreciate the opportunity to serve the RTA in successfully delivering the vital Bus Maintenance Facility project.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Randy Rominger', written over a light blue circular stamp.

Randy Rominger
Regional Executive

Enclosures:

1. Rebid Breakdown of Hours

Employee Name	Employee Number	Business Unit	Date Worked	Day of the Week	G/L Date	Hours Worked
MALONEY, SARAH	30428	6634C3 - Rebid Time	5/21/2020	4	5/24/2020	8.00
MALONEY, SARAH	30428	6634C3 - Rebid Time	5/22/2020	5	5/24/2020	8.00
MALONEY, SARAH	30428	6634C3 - Rebid Time	5/26/2020	2	5/31/2020	4.00
Total MALONEY, SARAH						20.00
STEFANEK, RYAN	34408	6634C3 - Rebid Time	5/21/2020	4	5/24/2020	8.00
STEFANEK, RYAN	34408	6634C3 - Rebid Time	5/22/2020	5	5/24/2020	0.75
STEFANEK, RYAN	34408	6634C3 - Rebid Time	5/22/2020	5	5/24/2020	7.25
STEFANEK, RYAN	34408	6634C3 - Rebid Time	5/26/2020	2	5/31/2020	4.00
STEFANEK, RYAN	34408	6634C3 - Rebid Time	5/27/2020	3	5/31/2020	4.00
STEFANEK, RYAN	34408	6634C3 - Rebid Time	5/28/2020	4	5/31/2020	2.00
STEFANEK, RYAN	34408	6634C3 - Rebid Time	5/29/2020	5	5/31/2020	2.00
STEFANEK, RYAN	34408	6634C3 - Rebid Time	5/29/2020	5	5/31/2020	4.00
STEFANEK, RYAN	34408	6634C3 - Rebid Time	6/8/2020	1	6/14/2020	4.00
Total STEFANEK, RYAN						36.00
WYATT IV, LEE	24462	6634C3 - Rebid Time	5/20/2020	3	5/24/2020	2.00
WYATT IV, LEE	24462	6634C3 - Rebid Time	5/21/2020	4	5/24/2020	8.00
WYATT IV, LEE	24462	6634C3 - Rebid Time	5/22/2020	5	5/24/2020	2.00
WYATT IV, LEE	24462	6634C3 - Rebid Time	5/22/2020	5	5/24/2020	2.00
WYATT IV, LEE	24462	6634C3 - Rebid Time	5/26/2020	2	5/31/2020	3.00
WYATT IV, LEE	24462	6634C3 - Rebid Time	5/27/2020	3	5/31/2020	3.00
WYATT IV, LEE	24462	6634C3 - Rebid Time	5/28/2020	4	5/31/2020	4.00
WYATT IV, LEE	24462	6634C3 - Rebid Time	5/29/2020	5	5/31/2020	1.00
WYATT IV, LEE	24462	6634C3 - Rebid Time	5/29/2020	5	5/31/2020	3.00
WYATT IV, LEE	24462	6634C3 - Rebid Time	6/1/2020	1	6/7/2020	2.00
WYATT IV, LEE	24462	6634C3 - Rebid Time	6/4/2020	4	6/7/2020	2.00
WYATT IV, LEE	24462	6634C3 - Rebid Time	6/12/2020	5	6/14/2020	1.00
Total WYATT IV, LEE						33.00
Total 6634C3 - Rebid Time						89.00
GRAND TOTAL						89.00

Tully Wyatt: \$185/hr x 33hrs = \$6,105.00 Ryan Stefanek: \$120/hr x 36hrs = \$4,320.00 Sarah Maloney: \$120/hr x 20hrs = \$2,400.00 . Total: \$12,825.00

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SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY
SEPTEMBER 2, 2020
STAFF REPORT

AGENDA ITEM: C-4

TOPIC: Agreement with CPS HR Consulting for Diversity, Equity, and Inclusion Review & Recommendations

ACTION: Approve

PRESENTED BY: Geoff Straw, Executive Director

STAFF RECOMMENDATION: Authorize Executive Director to Execute Agreement with CPS HR Consulting for Diversity, Equity, and Inclusion Review & Recommendations

BACKGROUND/DISCUSSION:

At the April 3, 2019 Board Meeting, the Board authorized the RTA Executive Director to execute an agreement with CPS HR Consulting for an audit and compliance review. The results of that review were provided to the Board at the March 2, 2020 meeting.

In looking forward, staff is working on items that should be address as part of the update to the items included in the Strategic Business Plan, including the vision, mission, values and goals of the RTA. In order to ensure the RTA is appropriately addressing diversity, equity and inclusion as part of the revision, staff researched options for an outside evaluation. CPS HR Consulting is a firm that is used by not just the County of San Luis Obispo, who previously helped the RTA identify CPS as an outside agency that could provide a professional review, but they are also used by many of the Cities within the County.

Staff has included the proposal and draft agreement, which includes the scope and nature of the proposed services up to \$7,200. Due to the COVID 19 pandemic, previously identified funding in the budget for professional development that will not be spent are being allocated to fund this review and requires no additional funding.

Staff Recommendation

Authorize the RTA Executive Director to execute the agreement with CPS HR Consulting for a diversity, equity, and inclusion review with recommendations with consent from the RTA Counsel.

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San Luis Obispo Regional Transit Authority

Diversity, Equity, and Inclusion Review & Recommendations

CPS HR Consulting (CPS HR) has been providing consultation, facilitation, and training on diversity, equity, and inclusion (DEI) in various forms for over seven years. These services assist public sector organizations assess and determine the appropriate level of DEI policies, practices, and activities to meet organizational and cultural goals. This work is especially important given today's environment.

Approach

The conversations around ethnic diversity, equity and inclusion have become more comprehensive and multidimensional in the 21st Century. Considering the most recent events occurring around the United States and reverberating around the world, this topic is more relevant now than ever before. High performing organizations in both the public and private sector are actively embracing an employee engagement strategy, which directly navigates through these “challenging waters” for the express purpose of creating meaningful connections among employees to promote diversity, inclusion and equity. The success of this engagement strategy depends, in large part, on how effective these organizations are in having difficult and fearless conversations around race, equity, opportunity and social justice and putting into place practices that support DEI.

To meet the needs of SLORTA, we propose a three-step process:

1. Review of current CEI policies and practices
2. Provide recommendations for additional DEI support
3. Assist with implementation of training and/or framework for internal support structures

Step 1: Review

CPS HR will conduct a review of your current DEI policies and practices. This will include talking with key stakeholders and reviewing relevant documents and employee information.

Our review will include:

- Discussions with the SLORTA Leadership Team, employee association leadership, and stakeholder representatives
- Mission/Vision/Values
- Strategic business plan
- HR policies, such as Title VI and EEO
- Current training opportunities
- Complaint history
- Relevant historical/demographic data about the region

- How DEI fits into the employee lifecycle, hiring, retention, development, performance, etc.
- Current outcomes in employee engagement and performance and compare/contrast with aspirational outcome goals and targets (“Expected vs. Actual” Discussion)
- Any other related information

This review will focus more heavily on individual interviews, with 18 possible stakeholders identified. Those interviews will take place over two rounds with the first round conducted onsite by the CPS HR Consultant. Review of any documents, expected to be minimal, will also take place during the onsite visit. The budget will reflect direct expenses only for the one anticipated trip.

Step 2: Analysis & Recommendations

Our approach to the analysis of information reviewed and received will be holistic, looking for opportunities to operationalize organizational and cultural transformation. Rather than a “one and done” training, we will present recommendations to promote a continuous conversation and new way of being for the organization that over time continues to bolster DEI.

In this step we will determine if and what type of additional practices, policies, and/or activities we recommend augmenting and strengthening DEI across all organizational stakeholder groups. The CPS HR consultant will compare current practices to best practices in consideration of the type of business that SLORTA conducts and the unique employee make-up and public contact.

We will provide SLORTA with a written report and present our findings and recommendations to leadership. Recommendations might include ongoing training opportunities, climate and culture survey, policy development, conflict resolution strategies and practices, internal structures, etc.

Step 3: Implementation

If desired CPS HR can assist with implementation of a number of best practices for DEI to embed processes and procedures throughout the employee lifecycle. Some of those might include facilitated conversations with department heads and/or across the organization, various training courses, recruiting practices, common DEI metrics, or support creating an employee driven DEI committee.

A sample course on Cultural Intelligence which can be given in multiple formats for different audiences is described below:

Cultural Intelligence

Cultural intelligence or cultural quotient (CQ) is having the capacity to relate and work effectively with different groups of people and across cultures (including Big-C “Culture” and little-c “culture”). Cultural intelligence differs from other philosophies and approaches to promoting diversity and inclusion. It articulates core competencies and skillsets that organizations have the ability cultivate and develop among its team members and leaders

through the staff development process to promote greater diversity and inclusion within those organizations.

Cultural intelligence goes beyond cultural awareness and political correctness. The essence of cultural intelligence is maximum self-awareness and situational awareness which gives the ability to discern and articulate those attributes and characteristics that unite groups of people, and those attributes and characteristics that distinguishes and differentiates groups of people. Furthermore, cultural intelligence requires the ability to suspend judgment while assessing and evaluating any given cultural situation. It is a recognition that there is no one dominant worldview, but rather multiple worldviews that each deserve equal acknowledgment, respect and recognition. Cultural intelligence does not require “agreement” with any particular worldview, only “acknowledgment” and recognition of various worldviews.

In this workshop, participants will learn:

- How to successfully create “safe spaces” in which conversations about race, social justice and equity can take place
- The critical distinctions between “acknowledgement” and “agreement” in creating optimum work and learning environments
- What and how high performing organizations have successfully adopted cultural intelligence staff development tools to operationalize diversity and inclusion strategies
- How to cultivate mutual respect and acknowledgment to build bridges between different groups of people as opposed to creating division

Workshop Focus

Start with unconscious bias	Unconscious bias- Point of departure
Discuss cultural awareness/ acknowledge other alternatives	Sustainable solutions
How to address the topic of race gracefully and safely	Diversity, inclusion and cultural intelligence
How to manage healthy conflict (clash of ideas leads to innovation)	Connecting with constituencies (external and internal)
KSAs for “Operational Effectiveness”- recruiting, onboarding, interviewing, hiring uniqueness	Why Cultural Intelligence adds value to hiring and retention
The process is a marathon not a sprint, discuss an ongoing process	Operationalize and make concrete to experiences

CPS HR Consultant

Jacques S. Whitfield, JD

Profile

Mr. Whitfield is a seasoned Human Resources Executive with over 19 years of experience in human resources management. Whitfield recently completed a six-year tenure as the Chief Human Resources Officer for the Yuba Community College District. Whitfield was responsible for the management and oversight of the human resources operations for the district and is credited with revitalizing and streamlining the Human Resource Operations for the Yuba Community College District. Whitfield is a subject matter expert in performance management, employee engagement and state and federal EEO compliance matters. He is highly accomplished in successfully working with others to develop professional skills and improve employee effectiveness through training and development. Whitfield is a frequent speaker, trainer, and presenter.

Employment History

- Senior Consultant, Recruitment Solutions, CPS HR Consulting
- Chief Human Resources Officer, Yuba Community College District
- Adjunct Professor, School of Education, California State University, Sacramento
- Managing Partner, The Sterling Group, Ltd
- Director of Administrative Services and Strategic Planning, Target Excellence
- District General Counsel/Associate Superintendent, Grant Joint Union High School District

Professional Experience

- Seasoned HR Executive and subject matter expert in the areas of labor and employment, labor relations, collective bargaining, state and federal EEO compliance
- Expertise in quarterbacking personnel investigations arising from harassment and discrimination complaints to eliminate potentially hostile work environments and liability for employers.
- Created and presented effective workshops to train employees on everything from effective performance management, EEO and nondiscrimination best practices, diversity and cultural competency in the workplace, effective communication of difficult information, conflict resolution strategies and exemplary customer service.
- Taught graduate level classes in educational leadership for K-12 and Community college administrators.

Education

- J.D. University of North Carolina – Chapel Hill, NC
- B.A. Wake Forest University, Winston-Salem, NC

Professional Organizations and Affiliations

- Society of Human Resources Management (SHRM)
- Association of Chief Human Resource Officers
- Association of California Community College Administrators

Pricing

CPS HR can provide the services described above for the following price:

Service	Approximate # of Hours*	Rate	Total
Step 1: Review	Up to 30	\$130/hour	\$3,900
Direct Expenses for One Onsite Trip (First Round of Interviews)			Estimated at \$700
Step 2: Analysis & Recommendations (including presentation of findings)	Up to 20	\$130/hour	\$2,600
TOTAL			\$7,200
Step 3: Implementation (examples, will depend on recommendations) <ul style="list-style-type: none"> • Facilitated Conversation • Training course – half day 	TBD	TBD	TBD

**Hours will depend on the extent of the review.*

We are happy to further discuss these options and modify them as needed.

Contacts

SLORTA

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 Chief Financial Officer
 179 Cross Street, Ste. A
 San Luis Obispo, CA 934-1
 O: (805) 781-4397
 E: tarnold@slorta.org

CPS HR Consulting

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 O: (916) 471-3358
 E: masher@cpshr.us

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SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY
RTA SPECIAL BOARD MEETING MINUTES OF AUGUST 5, 2020
C-5

BOARD MEMBERS PRESENT:

LYNN COMPTON, FOURTH DISTRICT, COUNTY OF SAN LUIS OBISPO
ROBERT DAVIS, CITY OF MORRO BAY
KAREN BRIGHT, CITY OF GROVER BEACH
JIMMY PAULDING, CITY OF ARROYO GRANDE
JOHN PESCHONG, FIRST DISTRICT, COUNTY OF SAN LUIS OBISPO (Vice President)
ANDY PEASE, CITY OF SAN LUIS OBISPO
HEATHER MORENO, CITY OF ATASCADERO
FRED STRONG, CITY OF PASO ROBLES (President)
ED WAAGE, CITY OF PISMO BEACH
DEBBIE ARNOLD, FIFTH DISTRICT, COUNTY OF SAN LUIS OBISPO
ADAM HILL, THIRD DISTRICT, COUNTY OF SAN LUIS OBISPO

BOARD MEMBERS ABSENT:

BRUCE GIBSON, SECOND DISTRICT, COUNTY OF SAN LUIS OBISPO

STAFF PRESENT:

GEOFF STRAW, EXECUTIVE DIRECTOR
NINA NEGRANTI, SAN LUIS OBISPO COUNTY COUNSEL
CHELSEA SPERAKOS, ADMINISTRATIVE ASSISTANT

CALL MEETING TO ORDER, ROLL CALL

President Fred Strong called the meeting to order at 8:30 AM and roll call was taken. A quorum was present.

PUBLIC COMMENT: The Board reserves this portion of the agenda for members of the public to address the San Luis Obispo Regional Transit Authority Board on any items not on the agenda and within the jurisdiction of the Board. Comments are limited to three minutes per speaker. The Board will listen to all communication, but in compliance with the Brown Act, will not take any action on items that are not on the agenda.

Mrs. Chelsea Sperakos asked anyone on the call who would like to make a public comment would use the "raise hand" function on Zoom or to dial *9 on the call in number. The speaker will be notified when it is their turn. After leaving some time available for speakers to come forward, there were no public comments.

A. INFORMATION AGENDA

A-1 Report on Financing of New Bus Maintenance Facility (Receive)

Mr. Geoff Straw stated both Pacific West Bank loans closed on July 21st, which includes the 3 year \$1 million permanent loan and the bridge \$14.1 million letter of credit loan. There have been no changes to the last-minute list of terms provided at the July 8th RTA Board meeting. The TIFIA loan application was accepted on July 16th. Staff is negotiating final language in the loan documents. A draft *TIFIA Checklist & Loan Agreement* documents were included in the agenda packet. RTA is scheduled to close the loan following the September 2nd RTA Board consideration of final documents.

Ms. Lynn Compton made a motion to receive agenda item A-1, and **Mr. Ed Waage** seconded the motion. The motion passed unanimously via voice vote.

B. ACTION AGENDA—None

C. CONSENT AGENDA: (Roll Call Vote) the following items are considered routine and non-controversial by staff and will be approved by one motion if no member of the RTA or public wishes an item be removed. If discussion is desired by anyone, the item will be removed from the consent agenda and will be considered separately. Questions of clarification may be made by RTA Board members, without the removal of the item from the Consent Agenda. Staff recommendations for each item are noted following the item.

C-1 Amendment to Agreement with KNN Public Finance (Approve)

C-2 Application for FTA 5311 CARES Act Phase 2 Funds (Approve)

Ms. Heather Moreno made a motion to approve consent agenda item C-1 and C-2, and **Mr. Waage** seconded the motion. The motion passed unanimously via roll call vote as follows:

<u>BOARD MEMBER</u>	<u>YES</u>	<u>NO</u>	<u>ABSENT</u>
DEBBIE ARNOLD	X		
LYNN COMPTON	X		
BRUCE GIBSON			X
ADAM HILL	X		
JOHN PESCHONG (Vice President)	X		
ROBERT DAVIS	X		
KAREN BRIGHT	X		
JIMMY PAULDING	X		
ANDY PEASE	X		
HEATHER MORENO	X		
FRED STRONG (President)	X		
ED WAAGE	X		

D. CLOSED SESSION

The Board went into closed session 8:41 AM and returned to open session at 8:55 AM.

E. BOARD MEMBER COMMENTS—None

The meeting adjourned at 9:00 AM.

Next regularly-scheduled RTA Board meeting is September 2nd, 2020

Respectfully Submitted,

Acknowledged by,

Chelsea Sperakos, Administrative Assistant

Fred Strong, RTA President 2020

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**SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY
SEPTEMBER 2, 2020
STAFF REPORT**

AGENDA ITEM: C-6

TOPIC: BMF Construction Change Order

PRESENTED BY: Geoff Straw, Executive Director

STAFF RECOMMENDATION: Receive and File Construction Change Order #1

BACKGROUND/DISCUSSION:

During demolition of the former U-Haul building necessary for construction of the new RTA Bus Maintenance Facility (BMF) project, the general contractor's license asbestos abatement subcontractor discovered a greater amount of asbestos material (~100 square feet) than was originally identified in the asbestos survey conducted by West Coast Safety Consultants in March 2020. That original 20 square foot estimate was included in the construction bidding documents, and thus comprised a portion of the agreement between the RTA and the general contractor (Specialty Construction, Inc., or SCI). As presented in the attached change order, the additional cost to remove and properly dispose of the asbestos materials amounts to \$13,756.05.

As identified in the July 8, 2020 RTA Board Resolution authorizing execution of the agreement with SCI, the Executive Director is also authorized to order any changes or additions to the plans, designs or any other provisions of the work so long as any such change or addition is deemed consistent with the proper completion of the project under the sound discretion of the Executive Director. The dollar amount of any such change or addition shall not exceed the maximum dollar amount allowed per Public Contract Code Section 20142. Based on the size of the BMF project, the current limit is two hundred fifty thousand dollars (\$250,000).

As part of its evaluation process, staff worked with our construction management consultant (Kitchell CEM) to conduct a cost analysis and we determined that SCI's proposed changes are necessary to meet the project's defined needs, and the price bid is customary and appropriate for the work proposed. For that reason, I authorized Change Order #1 and I am herein reporting the change to the RTA Board.

Staff Recommendation

Receive and file change order #1 for construction of the new RTA Bus Maintenance Facility project.

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COST REQUEST BULLETIN

Project:	<u>SLO RTA Bus Maintenance Facility Project</u>	Date:	<u>August 11, 2020</u>
Contractor:	<u>Specialty Construction, Inc.</u>	Project No:	<u>2020-01</u>
Architect:	<u>Stantec</u>	CRB No.	<u>001</u>
Subject:	<u>Additional Abatement Existing U-Haul Building</u>	PCO No.	<u>001</u>

CONTRACTOR:

Parc Environmental (SCI Subcontractor) began their abatement work as scheduled on Monday August 10. As they progressed, it was noticed that the asbestos containing silver paint extended to the existing roof panels and exceeded the quantity of 20sf. as outlined in the Contract.

REASON FOR REQUEST: This material was not clearly identified during the original asbestos survey.

DESCRIPTION: Provide all supervision, labor, equipment, material, hauling and fees to remove metal panels containing asbestos-based coatings.

REFERENCE:

- ☒ a. This Bulletin is complete
- ☐ b. See attached documents as follows: (A/E to list all attachments.)

NOTES:

1. Submit costs and time only.
2. None of the work described in the Bulletin shall be performed until authorization to proceed with the change is received.
3. Provide a written detailed explanation of any time delay impacts.
4. All work shall be in conformance with the requirements of the Contract Documents. If you consider that a change in Contract Sum or Contract Time is required, submit your itemized proposal immediately and before proceeding with this work. The proposal shall include itemized costs of labor, materials, equipment, overhead, profit and contract time changes as required in the General Conditions. If your proposal is found to be satisfactory and in proper order, this Cost Request Bulletin will be superseded by a Change Order to your Contract.

If a Change Order is contemplated, fill out and check boxes as appropriate:

- ☐ Estimated Cost: \$ _____
- ☒ Cost Basis: \$ 13,756.05
- ☐ Contract Time is unchanged ☒ Proposed adjustment to Contract Time of 1 calendar days.

Distribution:

- ☐ Troy Hart, KCEM, Project Manager
- ☐ Sarah Maloney, KCEM, Project Engineer
- ☐ Kirk Wheeler, SCI, Project Manager
- ☐ Geoff Straw, RTA, Executive Director



SPECIALTY CONSTRUCTION

Specialty Construction, Inc.
645 Clarion Court
San Luis Obispo, California 93401
Phone: (805) 543-1706
Fax: (805) 543-1722

PCO #001

Project: 220025 - SLO RTA Bus Maintenance Facility
253 Elks Lane
San Luis Obispo, California 93401

Prime Contract Potential Change Order #001: CE #003 - Additional Abatement @ Existing Facility

TO:	San Luis Obispo Regional Transit Authority 179 Cross Street San Luis Obispo California, 93401	FROM:	Specialty Construction, Inc. 645 Clarion Court San Luis Obispo California, 93401
PCO NUMBER/REVISION:	001 / 0	CONTRACT:	1 - SLO RTA Bus Maintenance Facility Prime Contract
REQUEST RECEIVED FROM:		CREATED BY:	Kirk Wheeler (Specialty Construction, Inc.)
STATUS:	Pending - In Review	CREATED DATE:	8/10/2020
REFERENCE:		PRIME CONTRACT CHANGE ORDER:	None
FIELD CHANGE:	No		
LOCATION:	Bus Maintenance Facility	ACCOUNTING METHOD:	Amount Based
SCHEDULE IMPACT:	1 day	PAID IN FULL:	No
		TOTAL AMOUNT:	\$13,756.05

POTENTIAL CHANGE ORDER TITLE: CE #003 - Additional Abatement @ Existing Facility

CHANGE REASON: Differing Site Conditions

POTENTIAL CHANGE ORDER DESCRIPTION: *(The Contract Is Changed As Follows)*

CE #003 - Additional Abatement @ Existing Facility

Notes:

Parc Environmental began the asbestos and lead abatement of the old U-Haul building on Monday 8-10-2020 and they discovered that all the roof panels have the silver paint containing asbestos on them.

The Asbestos report states there is approximately 20 SF of the asbestos silver paint to contend with, this is what is included in PARC's bid proposal. However, in the report there is an inspectors note that states, "Additional silver paint could exist on the metal decking, however it was difficult to determine."

There are additional work and costs to the project to remove all the metal roof panels that are coated with the asbestos containing silver paint.

Scope of Work:

(PARC Environmental) Provide all necessary supervision, labor, equipment, material, cartage and fees to remove and dispose of the additional roof panels that have the silver paint on them containing Asbestos.

Billing Cost Code:

OCE 003 - 31 00 00.5

ATTACHMENTS:

This Potential Change Order notifies the Owner of a potential impact to the Work in both cost or time and shall serve as notice to the Owner of a change in the Work as required by the Prime Contract. Upon the date of acceptance by Owner, Contractor will proceed with the change as directed by Owner, which may be performed by any of the following methods: a. time and materials, b. fixed price, or by c. Cost plus fee with supporting documentation. As soon as practical and prior to applications for payments related to this Potential Change Order, Contractor will process a Change Order Request and/or Prime Contract Change Order with the Owner. The Owner agrees to process such Change Order Requests and Prime Contracts in timely manner to assist Contractor with timely process of



SPECIALTY CONSTRUCTION

Specialty Construction, Inc.
645 Clarion Court
San Luis Obispo, California 93401
Phone: (805) 543-1706
Fax: (805) 543-1722

PCO #001

Project: 220025 - SLO RTA Bus Maintenance Facility
253 Elks Lane
San Luis Obispo, California 93401

Prime Contract Potential Change Order #001: CE #003 - Additional Abatement @ Existing Facility

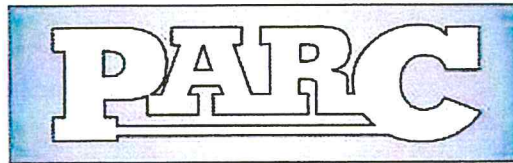
applications for payment and applicable billings for the Work. The Prime Contract refers to the agreement between Owner and Contractor dated 07/21/2020 for the construction of the project known as SLO RTA Bus Maintenance Facility.

San Luis Obispo Regional Transit Authority

179 Cross Street
San Luis Obispo California 93401


SIGNATURE

8-12-2020
DATE



ENVIRONMENTAL

Solutions Made Easy

CA Lic. #501913 NV Lic. #0034638 DOSH Registration #19 Hauler Registration #2908 EPA #CAR000263707

24 Hour Emergency Spill Response • Asbestos Abatement • Lead Paint Removal • Hazardous Waste Hauling & Disposal
Soil Remediation • Site Assessments • Microbial Decontamination • Indoor Air Quality • Lab Packing • Hydro Blasting • Painting & Coatings

Change Order #1

DATE: 8/11/2020

JOB NAME: Asbestos Metal Roof – SLO RTA Bus Maintenance Facility

PARC Environmental, hereinafter designated as PARC, proposes to perform the following Scope of work:

Scope of work:

Remove, transport, and dispose Asbestos Containing Silver Paint on Metal Roof Deck.

Price is based on the following:

1. Remove Metal Deck with Asbestos Silver Paint.
2. Dispose materials as Hazardous Waste with a signed manifest.
3. Price is based on Prevailing Wage Rates.

COST: \$13,101.00

Labor Rate:

- \$58.98 + Burden/Taxes/Insurance: \$20.29 = \$79.27 x 15% (Profit) = \$91.16
- Labor Estimated Hours 48 x \$91.16 = \$4,375.00

Materials:

- PPE (Suits, Respirators, Filters, Gloves) = \$975.00
- Hand Tools, Power Tools, Generators, Gas, Work Truck = \$1,421.00

Trucking & Disposal:

- Trucking Rate \$120 x 24hours = \$2,880.00
- 1 Dumpster of Friable Hazardous Waste = \$3,450.00

- ✓ This proposal shall be incorporated into any contract and attached to it as an Exhibit.
- ✓ Retention shall be paid within 90 days of substantial completion of work by PARC.
- ✓ Unless otherwise noted, this is a lump sum proposal; quantities listed are informational only and not to be used for deductive pricing. Unless otherwise noted, price is based on non-prevailing wages.

PROPOSAL TERMS: All work shall be performed in accordance with state and federal regulations pertaining to abatement of hazardous materials including transportation and disposal of waste. PARC carries liability, worker's compensation, and auto insurance. Unless otherwise stated; the customer agrees to supply sufficient water and electricity at no cost to PARC; the customer acknowledges that abatement requires the application of tape and agrees that PARC will not be held responsible for tape damage or for repainting; this bid is based on performing the work during regular work hours; PARC shall not be responsible for weather protection or for damages resulting from weather or vandalism; this proposal is subject to change and may be withdrawn if not accepted within 30 days of the above date.

TRANSPORTATION OF WASTE TERMS: The Generator authorizes PARC Environmental to sign all transportation documents and waste profiles as "agent for the generator". PARC will forward all required documentation to Generator. PARC Environmental will abide by all local, state, and federal regulations when handling, packaging, and transporting all wastes.

PAYMENT TERMS: Cash forthwith for any portion of work commenced and completed in any one calendar month. Balance of contract price due and payable within 10 calendar days upon completion of PARC's work. Unpaid monies shall be subject to a finance charge of 1.5% per month. The customer agrees to compensate PARC for any collection related costs, including reasonable attorney fees, if full payment is not timely made to PARC. The customer agrees that the court of jurisdiction, for any claim, shall be located in Fresno County.

Accepted _____, 2020
By: _____
Title: _____

PARC Environmental
Approved:
By: _____

2864 E. Dorothy, Fresno CA, 93706
P.O. Box 10077, Fresno, CA 93745-0077
(559) 233-7156 800-882-5362 FAX: (559) 233-4284
www.parcenvironmental.com