

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO.: 4090                      ORDINANCE COUNCIL SERIES NO. 09-  
COUNCIL SPONSOR: MR BINDER                      PROVIDED BY: BOND COUNSEL  
INTRODUCED BY: MR. BURKHALTER                      SECONDED BY: MR. CANULETTE  
ON THE 4<sup>TH</sup> DAY OF JUNE, 2009

A SUPPLEMENTAL BOND ORDINANCE AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$1,000,000 OF UTILITIES REVENUE BONDS, SERIES 2009, OF THE PARISH OF ST. TAMMANY, STATE OF LOUISIANA, IN ACCORDANCE WITH THE TERMS OF A GENERAL BOND ORDINANCE ADOPTED ON JULY 2, 2009; PRESCRIBING THE FORM, AND CERTAIN TERMS AND CONDITIONS OF SAID BONDS; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, the Parish of St. Tammany, State of Louisiana (the "Issuer") now owns and operates sewage collection, treatment and disposal systems and waterworks treatment and distribution systems as a revenue producing public utilities (the "System"); and

WHEREAS, the Issuer currently has no outstanding notes, bonds or other obligations payable from a pledge and dedication of the income and revenues of the System; and

WHEREAS, pursuant to Part XIII, Chapter 4, Title 39 of the Louisiana Revised Statutes of 1950, as amended (La. R.S. 39:1011, *et seq.*), as the same may be supplemented by Chapter 13 of Title 39 of the Louisiana Revised Statutes of 1950, as amended (La. R.S. 39:1421, *et seq.*), and other constitutional and statutory authority (the "Act"), it is the desire of this Parish Council to provide for the issuance of revenue bonds of the Issuer, for the purposes hereinafter described; and

WHEREAS, on this date, this Parish Council (the "Governing Authority") adopted a General Bond Ordinance entitled: "a General Bond Ordinance authorizing the issuance from time to time of Utilities Revenue Bonds of the Parish of St. Tammany, State of Louisiana; prescribing the form, and certain terms and conditions of said bonds; providing for the payment thereof in principal and interest; and providing for other matters in connection therewith." (the "General Bond Ordinance"), which authorizes the issuance of bonds from time to time for the aforesaid purposes; and

WHEREAS, the State Bond Commission approved the issuance of the 2009 Bonds at its April 16, 2009 meeting; and

WHEREAS, Section 1531 of Title 1 of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (enacted February 17, 2009) ("ARRA"), added § 54AA to the Internal Revenue Code of 1986, as amended, authorizing state and local governments; at their option, to issue two general types of "Build America Bonds" as taxable governmental bonds with federal subsidies for a portion of their borrowing costs; and

WHEREAS, this Governing Authority wishes to designate the 2009 Bonds as "Build America Bonds ('Direct Payment')"; and

WHEREAS, it is now the desire of this Governing Authority to authorize the issuance of not exceeding \$1,000,000 of Utilities Revenue Bonds, Series 2009 of the Issuer (the "2009 Bonds"), for the purpose of paying costs related to the design and engineering of additions, improvements and upgrades to the System, and paying costs of issuance; now therefore

THE PARISH OF ST. TAMMANY HEREBY ORDAINS that:

Definitions. In addition to words and terms elsewhere defined in the General Bond Ordinance and this First Supplemental Bond Ordinance, the following words and terms as used in this First Supplemental Bond Ordinance shall have the following meanings, unless some other meaning is plainly intended:

**"Administrative Fee"** means, with respect to the 2009 Bonds and any other Bonds purchased by the Department from the State Loan Fund, the annual fee equal to one-half of one percent (0.5%) per annum of the outstanding principal amount of such bonds, or such lesser amount as the Department may approve from time to time, which shall be payable each year in two equal semi-annual installments on each Interest Payment Date.

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

**"First Supplemental Ordinance"** means this Ordinance authorizing the issuance of the 2009 Bonds.

**"General Bond Ordinance"** means the General Bond Ordinance described in the preambles hereof.

**"Loan Agreement"** means the Loan and Pledge Agreement to be entered into by and between the Department and the Issuer, prior to the delivery of the 2009 Bonds, which will contain certain additional agreements relating to the 2009 Bonds and any other series of Bonds purchased by the Department from the State Loan Fund, which Loan Agreement shall be in substantially the form attached hereto as Exhibit B, as it may be supplemented, modified or amended from time to time in accordance with the terms thereof.

**"Paying Agent"** with respect to the 2009 Bonds means the chief financial officer of the Issuer, unless and until a successor Paying Agent shall have assumed such responsibilities pursuant to the General Bond Ordinance.

**"State Loan Fund"** means the Municipal Facilities Revolving Loan Fund established by the State of Louisiana, pursuant to Subchapter II, Chapter 4 of Title 30 of the Louisiana Revised Statutes of 1950, as amended, specifically La. R.S. 30:2078, *et seq.*) in the custody of the Department, which is to be used for the purpose of providing financial assistance for the improvement of sewerage systems in the State.

**"2009 Bonds"** means the Issuer's Utilities Revenue Bonds, Series 2009, authorized by this First Supplemental Ordinance and particularly Section 2 hereof.

Authorization of Series 2009 Bonds (a) In compliance with and under the authority of the Refunding Act, there is hereby authorized the incurring of an indebtedness of not exceeding One Million Dollars (\$1,000,000) for, on behalf of and in the name of the Issuer, for the purpose of paying costs related to the design and engineering of additions, improvements and upgrades to the sewerage component of the System and the construction and acquisition of improvements to said sewerage components, including equipment and facilities therefor, and paying costs of issuance, and to represent the indebtedness, this Governing Authority does hereby authorize the issuance of One Million Dollars (\$1,000,000) of Utilities Revenue Bonds, Series 2009, of the Issuer. The 2009 Bonds shall be dated the Delivery Date thereof, and the exact principal amount of the bonds, not to exceed \$1,000,000 as stated above, shall be determined by the Executive Officers at the time of delivery of the 2009 Bonds. In the event that the delivery of the Series 2009 Bonds is delayed until after 2009 such Bonds may be designated as "Series 2010," or such other series designation as may be determined by the Executive Officers. The Series 2009 Bonds may be issued in issue in multiple series, designated Series 2009A, 2009B and so on if the Executive Officers determine same to be necessary or beneficial or as required to distinguish between ARRA Funds and Non-ARRA Funds.

(a) The 2009 Bonds shall be Fixed Rate Bonds and the first interest payment shall be payable on the first Interest Payment Date after the delivery date of the 2009 Bonds. The 2009 Bonds shall bear interest at the rate of forty-five hundredths of one percent (0.45%) per annum, said interest to be calculated on the basis of a 360-day year consisting of twelve 30-day months and payable on

each Interest Payment Date. In addition to interest at the rate set forth above, at any time that the Department owns the 2009 Bonds the Issuer will pay an Administrative Fee to the Department on each Interest Payment Date. In the event (i) the Department owns any 2009 Bonds or the Department has pledged or assigned any 2009 Bonds in connection with State Loan Fund and (ii) the Administrative Fee payable by the Issuer to the Department under the terms of the Loan Agreement is declared illegal or unenforceable by a court or an administrative body of competent jurisdiction, the interest rate borne by the 2009 Bonds shall be increased by one-half of one percent (0.50%) per annum, effective as of the date declared to be the date from which the Administrative Fee is no longer owed because of such illegality or unenforceability.

(b) The 2009 Bonds shall mature in twenty (20) installments of principal, payable annually on each August 1 of each year and in the principal amounts hereinafter set forth:

<u>Date</u> <u>( August 1 )</u>	<u>Principal</u> <u>Amount</u>	<u>Date</u> <u>(August 1)</u>	<u>Principal</u> <u>Amount</u>
2011	\$5,000	2021	\$55,000
2012	5,000	2022	60,000
2013	55,000	2023	60,000
2014	55,000	2024	60,000
2015	55,000	2025	60,000
2016	55,000	2026	60,000
2017	55,000	2027	60,000
2018	55,000	2028	60,000
2019	55,000	2029	60,000
2020	55,000	2030	65,000

In the event that the Completion Date of the Project being financed with the 2009 Bonds is after August 1, 2010, the principal payment schedule set forth above may be adjusted so that each payment shall be due on the August 1 that is one year later than shown above, provided that in no event shall the final principal payment be more than twenty-two (22) years from the Delivery Date of the 2009 Bonds.

(c) The principal and interest on the 2009 Bonds shall be payable by check mailed to the registered owner of the 2009 Bonds (determined as of the Interest Payment Date) at the address shown on the registration books kept by the Paying Agent for such purpose, provided that payment of the final installment of principal on the 2009 Bonds shall be made only upon presentation and surrender of the 2009 Bonds to the Paying Agent.

(d) The principal installments of the 2009 Bonds are subject to prepayment at the option of the Issuer at any time, in whole or in part, at a prepayment price of par plus accrued interest and accrued Administrative Fee, if any, to the prepayment date and in such case the remaining principal of the 2009 Bonds shall continue to mature in installments calculated using the percentages shown in Section 2(c) above.

(e) The 2009 Bonds shall be issued in the form of a single fully registered bond, initially numbered R-1, and shall be in substantially the form attached hereto as Exhibit A.

(f) The Finance Director the Issuer shall be the initial Paying Agent for the 2009 Bonds.

(g) The 2009 Bonds are hereby awarded to and sold to the Department at a price of par plus accrued interest, if any, under the terms and conditions set forth in the Loan Agreement, and after their execution and authentication by the Paying Agent, the 2009 Bonds shall be delivered to the Department or its agents or assigns, upon receipt by the Issuer of the agreed purchase price. Pursuant to R.S. 39:1426(B), then Issuer has determined to sell the 2009 Bonds as a private sale without necessity of publication of a notice of sale.

(h) The Reserve Fund Requirement for the 2009 Bonds shall be an amount equal to one-half of the highest amount of principal and interest due on the 2009 Bonds in any future Bond Year. No proceeds of the 2009 Bonds shall be deposited into the Reserve Fund, however the Issuer shall make monthly deposits into the Series 2009 Account in the Reserve Fund, beginning no later than the 20th day of the first full calendar month after the Delivery Date of the 2009 Bonds, such that the Series 2009 Account in the Reserve Fund shall be fully funded within five (5) years after the Delivery Date. With respect to the Contingencies Fund, the sum required to be accumulated and then maintained therein is hereby established as \$50,000.

(i) No proceeds of the 2009 Bonds will be used to refund any outstanding obligations.

(j) Because the 2009 Bonds are the first series of bonds issued under the General Bond Ordinance, no parity bond findings in connection therewith are required.

(k) The Executive Officers are each hereby empowered, authorized and directed to do any and all things necessary and incidental to carry out all of the provisions of the General Bond Ordinance and this First Supplemental Ordinance, to execute and deliver the Loan Agreement, and to cause the 2009 Bonds to be prepared and/or printed, to issue, execute and seal the 2009 Bonds and to effect delivery thereof as hereinafter provided. In connection with the issuance and sale of the 2009 Bonds, the Executive Officers and the chief financial officer of the Issuer are each authorized, empowered and directed to execute on behalf of the Issuer such additional documents, certificates and instruments as they may deem necessary, upon the advice of bond counsel, to effect the transactions contemplated by this Ordinance, including a Supplemental Loan and Pledge Agreement and Commitment Agreement as may be required to ensure compliance with ARRA. The signatures of said on such documents, certificates and instruments to be conclusive evidence of the due exercise of the authority granted hereunder.

(l) The 2009 Bonds are not tax exempt bonds therefore they are not designated as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code.

(m) It is recognized that the Issuer will not be required to comply with the continuing disclosure requirements described in the Rule 15c2-12(b) of the Securities and Exchange Commission [17 CFR §240.15c2-12(b)], because (i) the 2009 Bonds are not being purchased by a broker, dealer or municipal securities dealer acting as an underwriter in a primary offering of municipal securities, and (ii) the 2009 Bonds are being sold to only one financial institution (i.e., no more than thirty-five persons), which has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the prospective investment in the 2009 Bonds and is not purchasing the 2009 Bonds for more than one account or with a view to distributing the Bonds.

(n) The "Scheduled Completion Date" with respect to the 2009 Bonds, as used in the Loan Agreement, is \_\_\_\_\_, 2010.

(o) There will be no Credit Facility with respect to the 2009 Bonds.

(p) The Loan Agreement, in substantially the form attached hereto as Exhibit B, is hereby approved, and the Executive Officers are authorized to execute and deliver the Loan Agreement on behalf of the Issuer, with such changes as may be deemed necessary, upon the advice of counsel, in connection with the 2009 Bonds.

SECTION 2. Designation as Build America Bonds. The 2009 Bonds shall be and hereby designated as "Build America Bonds" (Direct Payment) pursuant to Section 54AA of the Code. Interest on the 2009 Bonds shall not be excluded from gross income for federal income tax purposes, and the Issuer irrevocably elects to designate all of the 2009 Bonds as "Build America Bonds" under Section 54AA of the Code and specifically as "qualified bonds" within the meaning of Section 54AA(g) of the Code.

All of the proceeds of the 2009 Bonds, other than no matter than 2% of such proceeds used to pay issuance costs, plus investment proceeds thereof, will be used for capital expenditures and the issue price of the 2009 Bonds has no premium over the stated principal amount. None of the proceeds

of the 2009 Bonds will be deposited to the Reserve Fund or to any other reasonably required reserve fund.

It is intended by this election that with respect to the 2009 Bonds the Issuer will be entitled to a credit with respect to each interest payment as provided by Section 6431 of the Code equal to 35% of the interest payable under the 2009 Bonds, as the case may be, on each Interest Payment Date. The Executive Officers are authorized and empowered to take any further action as may be necessary in order to qualify the 2009 Bonds as Build America Bonds (Direct Payment) under said Section 54AA and Section 6431 of the Code, including any necessary filings, agreements, forms (including IRS Form 8038-CP) or other documentation necessary to receive the 35% reimbursement described in said sections.

**Parties Interested Herein.** Nothing in this First Supplemental Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or corporation, other than the Issuer, the Paying Agent and the Owners any right, remedy or claim under or by reason of this First Supplemental Ordinance or any covenant, condition or stipulation thereof; and all the covenants, stipulations, promises and agreements in this First Supplemental Ordinance contained by and on behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer, the Paying Agent and the Owners.

**No Recourse on the Bonds.** No recourse shall be had for the payment of the principal of or interest on the 2009 Bonds or for any claim based thereon or on this First Supplemental Ordinance against any member of the Governing Authority or officer of the Issuer or any person executing the 2009 Bonds.

**Successors and Assigns.** Whenever in this First Supplemental Ordinance the Issuer is named or referred to, it shall be deemed to include its successors and assigns and all the covenants and agreements in this First Supplemental Ordinance contained by or on behalf of the Issuer shall bind and inure to the benefit of its successors and assigns whether so expressed or not.

**Severability.** In case any one or more of the provisions of this First Supplemental Ordinance or of the 2009 Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this First Supplemental Ordinance or of the 2009 Bonds, but this First Supplemental Ordinance and the 2009 Bonds shall be construed and enforced as if such illegal or invalid provisions had not been contained therein. Any constitutional or statutory provision enacted after the date of this First Supplemental Ordinance which validates or makes legal any provision of this First Supplemental Ordinance or the 2009 Bonds which would not otherwise be valid or legal shall be deemed to apply to this First Supplemental Ordinance and to the 2009 Bonds.

**Publication; Peremption.** This First Supplemental Ordinance shall be published one time in the official journal of the Issuer, or if there is none, in a newspaper having general circulation in the Issuer. It shall not be necessary to publish the exhibits to this First Supplemental Ordinance but such exhibits shall be made available for public inspection at the offices of the Governing Authority at reasonable times and such fact must be stated in the publication within the official journal. For a period of thirty days after the date of such publication any persons in interest may contest the legality of this First Supplemental Ordinance and any provisions herein made for the security and payment of the 2009 Bonds. After such thirty day period no one shall have any cause or right of action to contest the regularity, formality, legality, or effectiveness of this First Supplemental Ordinance and the provisions hereof or of the bonds authorized hereby for any cause whatsoever. If no suit, action, or proceeding is begun contesting the validity of the bonds authorized pursuant to this First Supplemental Ordinance within the thirty days herein prescribed, the authority to issue the 2009 Bonds or to provide for the payment thereof, and the legality thereof, and all of the provisions of this First Supplemental Ordinance and such 2009 Bonds shall be conclusively presumed, and no court shall have authority or jurisdiction to inquire into any such matter.

**Effective Date.** This First Supplemental Ordinance shall become effective immediately.

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 6 OF 58

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 7 OF 58

MOVED FOR ADOPTION BY \_\_\_\_\_ SECONDED BY \_\_\_\_\_

WHEREUPON THIS ORDINANCE WAS SUBMITTED TO A VOTE AND RESULTED IN THE FOLLOWING:

YEAS:

NAYS:

ABSTAIN:

ABSENT:

THIS ORDINANCE WAS DECLARED ADOPTED AT A REGULAR MEETING OF THE PARISH COUNCIL ON THE 2<sup>nd</sup> DAY OF JULY 2009; AND BECOMES ORDINANCE COUNCIL SERIES NO. 09-\_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
JERRY BINDER, COUNCIL CHAIRMAN

\_\_\_\_\_  
THERESA L. FORD, COUNCIL CLERK

\_\_\_\_\_  
KEVIN DAVIS, PARISH PRESIDENT

Published introduction \_\_\_\_\_, 2009

Published adoption \_\_\_\_\_, 2009

Delivered to Parish President \_\_\_\_\_, 2009 @ \_\_\_\_\_

Returned to Council Clerk \_\_\_\_\_, 2009 @ \_\_\_\_\_

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 8 OF 58

**EXHIBIT A  
to First Supplemental Bond Ordinance**

**[FORM OF BOND]**

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

**UNITED STATES OF AMERICA  
STATE OF LOUISIANA  
PARISH OF ST. TAMMANY**

**UTILITIES REVENUE BOND, SERIES 2009  
OF THE  
PARISH OF ST. TAMMANY,  
STATE OF LOUISIANA**

<u>Bond Number</u>	<u>Bond Date</u>	<u>Interest Rate</u>	<u>Principal Amount</u>
R-1	_____	0.45%	\$1,000,000

FOR VALUE RECEIVED, the Parish of St. Tammany, State of Louisiana (the "Issuer"), hereby promises to pay (but only from the sources hereinafter described) to:

**REGISTERED OWNER:** Department of Environmental Quality  
attn: Financial Services Division, Accounts Receivable  
P. O. Box 4311  
Baton Rouge, Louisiana 70821-4311

or registered assigns noted on the registration record attached hereto the Principal Amount set forth above in annual installments as set forth in Schedule B hereto (unless a lower Principal Amount applies, as set forth below), together with interest thereon from the Bond Date set forth above or the most recent interest payment date to which interest has been paid or duly provided for, unless this Bond shall have been previously called for prepayment and payment shall have been duly made or provided for.

This Bond shall bear interest, payable semi-annually on February 1 and August 1 of each year, commencing \_\_\_\_\_ 1, 20\_\_\_\_ (each, an "Interest Payment Date"), at the Interest Rate shown above, said interest to be calculated on the basis of a 360-day year consisting of twelve 30-day months. Interest on the Bonds on any Interest Payment Date shall be payable only on the aggregate amount of the purchase price which shall have been paid theretofore, as noted on Schedule A hereto, and shall accrue with respect to each purchase price installment only from the date of payment of such installment.

If the Louisiana Department of Environmental Quality (the "Department"), is the registered owner of this Bond, the Issuer will additionally pay an Administrative Fee to the Department at the annual rate of one-half of one percent (0.5%) on the outstanding principal amount of the Bond, payable on each Interest Payment Date. In the event (i) the Department owns this Bond or the Department has pledged or assigned this Bond in connection with its Municipal Facilities Revolving Loan Fund Program and (ii) the Administrative Fee payable to the Department is declared illegal or unenforceable by a court or an administrative body of competent jurisdiction, then the "Annual Interest Rate" shown in the foregoing table and borne by this Bond shall be increased by one-half of one percent (0.5%) per annum, effective as of the date declared to be the date from which the Administrative Fee is no longer owed because of such illegality or unenforceability.

The principal and interest on this Bond shall be payable by check mailed to the registered owner of this Bond (determined as of the Interest Payment Date) at the address shown on the registration books kept by the Paying Agent (hereinafter defined) for such purpose, provided that payment of the final installment of principal on this Bond shall be made only upon presentation and surrender of this Bond to the Paying Agent.

The principal installments of this Bond are subject to prepayment at the option of the Issuer at any time, in whole or in part, at a prepayment price of par plus accrued interest and accrued Administrative Fee, if any, to the prepayment date. In such case, the remaining principal shall continue to mature in annual installments calculated using the percentages shown above.

In the event a portion of this Bond is to be prepaid, this Bond shall be surrendered to the Council Clerk of the governing authority, as initial Paying Agent for the Bonds (the "Paying Agent"), who shall note the amount of such prepayment in the space provided therefor on Schedule B to this Bond. Official notice of such call of this Bond for prepayment shall be given by means of first class mail, postage prepaid by notice deposited in the United States Mail not less than thirty (30) days prior to the prepayment date addressed to the registered owner of this Bond to be prepaid at his address as shown on the registration books of the Paying Agent, which notice may be waived by any registered owner. The Issuer shall cause to be kept at the office of the Paying Agent a register in which registration of this Bond and of transfers of the Bonds shall be made as provided herein and in the Ordinance. This Bond may be transferred, registered and assigned only on such registration records of the Paying Agent, and such registration shall be at the expense of the Issuer.

This Bond represents the entire issue of bonds of the Issuer designated "Utilities Revenue Bonds, Series 2009" aggregating in principal the sum of One Million Dollars (\$1,000,000) (the "Bonds"), the Bonds having been issued by the Issuer pursuant to a General Bond Ordinance adopted by its governing authority on July 2, 2009, as supplemented by a First Supplemental Bond Ordinance adopted by its governing authority on July 2, 2009 (collectively, the "Ordinance"), for the purpose of paying costs related to the design and engineering of additions, improvements and upgrades to the Issuer's sewage collection, treatment and disposal component of the hereinafter defined system, under the authority conferred by Part XIII, Chapter 4, Title 39 of the Louisiana Revised Statutes of 1950, as amended (La. R.S. 39:1011, *et seq.*), and other constitutional and statutory authority, pursuant to all requirements therein specified.

The Bonds are payable as to both principal and interest solely by a pledge of the revenues of the Issuer's combined revenues producing sewage collection, treatment and disposal systems and waterworks treatment and distribution systems, as more fully described in the Ordinance (the "System"), after there have been deducted therefrom the reasonable and necessary expenses of operating and maintaining the System (the "Net Revenues" as more fully described in the Ordinance). The Bonds constitute a borrowing solely upon the credit of said revenues of the System and do not constitute an indebtedness or pledge of the general credit of the Issuer within the meaning of any constitutional or statutory limitation of indebtedness. Subject to the foregoing, the Net Revenues are irrevocably and irrevocably pledged in an amount sufficient for the payment of this Bond and the issue of which it forms a part in principal and interest as they shall respectively become due and payable, and for the other purposes set forth in the Ordinance. The Net Revenues shall be set aside in the funds and accounts described in the Ordinance and shall be and remain so pledged for the security and payment of the Bonds in principal and interest, and for all other payments provided in the Ordinance, until the Bonds shall be fully paid and discharged.

Subject to the additional provisions set forth in the Ordinance, the governing authority of the Issuer has covenanted and agreed and does hereby covenant and agree to fix, establish and maintain such rates and collect such fees, rents or other charges for the services and facilities furnished by the System, as shall be sufficient to provide for the payment of all reasonable and necessary expenses of operation and maintenance of the System, to provide for the payment of interest on and principal of all bonds or other obligations payable therefrom as and when the same shall become due and payable, for the creation of a reserves therefor, and for the provision of a reserve to care for extensions, additions, improvements, renewals and replacements necessary to properly operate the System. For a more complete statement of the revenues from which and conditions under which this Bond is payable, and

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 10 OF 58

the general covenants and provisions pursuant to which this Bond is issued, reference is hereby made to the Ordinance.

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

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

IN WITNESS WHEREOF, the St. Tammany Parish Council, acting as the governing authority of the Issuer, has caused this Bond to be executed by the manual or facsimile signatures of its Parish President and Council Clerk, and to be dated the date of delivery hereof and the Issuer's corporate seal to be impressed or imprinted hereon.

PARISH OF ST. TAMMANY,  
STATE OF LOUISIANA

ATTEST:

By: \_\_\_\_\_  
Parish President

By: \_\_\_\_\_  
Council Clerk

(SEAL)

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 11 OF 58

<b>REGISTRATION RECORD</b>		
<b>UTILITIES REVENUE BOND, SERIES 2009</b>		
<b>OF THE</b>		
<b>PARISH OF ST. TAMMANY,</b>		
<b>STATE OF LOUISIANA</b>		
<b>Name and Address Of Registered Owner</b>	<b>Date of Registration</b>	<b>Signature of Paying Agent</b>
Department of Environmental Quality, attn: Financial Services Division, Accounts Receivable P. O. Box 4311 Baton Rouge, LA 70821- 4311		

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 12 OF 58

**SCHEDULE A  
SCHEDULE OF PURCHASE PRICE PAYMENTS  
UTILITIES REVENUE BOND, SERIES 2009  
OF THE  
PARISH OF ST. TAMMANY,  
STATE OF LOUISIANA**

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

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 13 OF 58

**SCHEDULE B  
SCHEDULE OF PRINCIPAL PREPAYMENTS  
UTILITIES REVENUE BOND, SERIES 2009  
OF THE  
PARISH OF ST. TAMMANY,  
STATE OF LOUISIANA**

No.	Maturity Date (August 1)	Principal Installment Amount
1		\$5,000
2		5,000
3		55,000
4		55,000
5		55,000
6		55,000
7		55,000
8		55,000
9		55,000
10		55,000
11		55,000
12		60,000
13		60,000
14		60,000
15		60,000
16		60,000
17		60,000
18		60,000
19		60,000
20		65,000



ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 15 OF 58

**EXHIBIT B**  
**to First Supplemental Bond Ordinance**

**LOAN AND PLEDGE AGREEMENT**

---

**MUNICIPAL FACILITIES  
REVOLVING LOAN FUND**

**LOAN AND PLEDGE AGREEMENT**

dated as of \_\_\_\_\_, 2009

by and between

Louisiana Department of Environmental Quality

and the

Parish of St. Tammany, State of Louisiana

relating to the issuance of:

not exceeding \$1,000,000

Sewer Revenue Bonds, Series 2009

of the

Parish of St. Tammany, State of Louisiana

Loan No. \_\_\_\_\_

**TABLE OF CONTENTS**

\* \* \* \* \*

**ARTICLE I**

**DEFINITIONS AND INTERPRETATION**

SECTION 1.01. Definitions ..... 3  
SECTION 1.02. Rules of Interpretation ..... 6

**ARTICLE II**

**REPRESENTATIONS OF THE DEPARTMENT**

SECTION 2.01. Representations of the Department ..... 8  
SECTION 2.02. Representations of the Borrower ..... 8  
SECTION 2.03. Particular Covenants of the Borrower ..... 10  
SECTION 2.04. Tax-Exempt Status of Bonds ..... 11

**ARTICLE III**

**LOAN TO BORROWER; ISSUANCE OF BONDS**

SECTION 3.01. Terms of the Loan ..... 12  
SECTION 3.02. Issuance of Bonds ..... 12  
SECTION 3.03. Delivery of Documents ..... 12  
SECTION 3.04. Interest and Principal Payments ..... 13  
SECTION 3.05. Prepayment of Bonds ..... 13  
SECTION 3.06. Administrative Fee ..... 13  
SECTION 3.07. Manner of Repayment ..... 13  
SECTION 3.08. Disclaimer of Warranties and Indemnification ..... 14  
SECTION 3.09. Registrar ..... 14  
SECTION 3.10. Lost, Destroyed or Improperly Cancelled Bonds ..... 14

**ARTICLE IV**

**PAYMENT OF BONDS; DEFEASANCE**

SECTION 4.01. Pledge of Revenues ..... 16  
SECTION 4.02. Defeasance ..... 16

**ARTICLE V**

**FUNDS AND ACCOUNTS**

SECTION 5.01. Funds and Accounts ..... 17

SECTION 5.02. Investments ..... 17  
SECTION 5.03. Notification of Deficiencies ..... 17

**ARTICLE VI**

**CONSTRUCTION AND COMPLETION OF THE PROJECT**

SECTION 6.01. Plans and Specifications; Construction Contracts ..... 18  
SECTION 6.02. Engineer ..... 18  
SECTION 6.03. Compliance with Law ..... 18  
SECTION 6.04. Payment of Additional Costs of the Project ..... 19  
SECTION 6.05. Completion Certificate ..... 19

**ARTICLE VII**

**DISBURSEMENTS**

SECTION 7.01. Disbursement of Loan Proceeds ..... 20  
SECTION 7.02. Disbursement Procedure ..... 20  
SECTION 7.03. Modified Disbursement Procedure ..... 21  
SECTION 7.04. Reimbursement of Certain Costs ..... 21  
SECTION 7.05. Inspections; Possession of Project ..... 21  
SECTION 7.06. Conditions Precedent ..... 22  
SECTION 7.07. Conditions to all Disbursements ..... 23  
SECTION 7.08. Conditions to Disbursement of Retainage ..... 23

**ARTICLE VIII**

**OPERATION OF THE SYSTEM**

SECTION 8.01. Operation of the System ..... 25  
SECTION 8.02. Sewer Charges and Connections ..... 25  
SECTION 8.03. User Fees ..... 26  
SECTION 8.04. Annual Review of User Fees ..... 26  
SECTION 8.05. Financial Records; Annual Audit ..... 26  
SECTION 8.06. Consulting Engineer ..... 27  
SECTION 8.07. Prohibition Against Liens ..... 27  
SECTION 8.08. Insurance ..... 28  
SECTION 8.09. Fidelity Bonds ..... 28  
SECTION 8.10. Competitive Franchises ..... 28  
SECTION 8.11. Equal Opportunity ..... 28

SECTION 8.12. Access to Books ..... 28

**ARTICLE IX**

**PARITY OBLIGATIONS**

SECTION 9.01. Issuance of Additional Parity Obligations ..... 29

SECTION 9.02. Junior and Subordinate Lien Obligations ..... 29

**ARTICLE X**

**DEFAULTS AND REMEDIES**

SECTION 10.01. Events of Default ..... 30

SECTION 10.02. Notice of Default ..... 30

SECTION 10.03. Remedies on Default ..... 30

SECTION 10.04. Appointment of Engineer; Required Reports ..... 31

SECTION 10.05. Appointment of Receiver ..... 31

SECTION 10.06. Attorney's Fees and Other Expenses ..... 31

SECTION 10.07. Application of Moneys ..... 32

SECTION 10.08. No Remedy Exclusive; Waiver; Notice ..... 32

SECTION 10.09. Retention of Department's Right ..... 32

SECTION 10.10. Default by Department ..... 32

**ARTICLE XI**

**ASSIGNMENT**

SECTION 11.01. Assignment, Transfer or Sale by the Department ..... 33

SECTION 11.02. Assignment, Transfer or Sale by Borrower ..... 33

**ARTICLE XII**

**MISCELLANEOUS**

SECTION 12.01. Payment of Department Expenses ..... 35

SECTION 12.02. Consents and Approvals ..... 35

SECTION 12.03. Notices ..... 35

SECTION 12.04. Binding Effect ..... 35

SECTION 12.05. Severability ..... 35

SECTION 12.06. Amendments, Supplements and Modifications ..... 35

SECTION 12.07. Execution in Counterparts ..... 35

SECTION 12.08. Applicable Law ..... 35

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 19 OF 58

SECTION 12.09. Captions ..... 35

SECTION 12.10. Further Assurances ..... 35

SECTION 12.11. Borrower to Cooperate in Rating and Issuance of Department's Bonds ..... 36

SECTION 12.12. Borrower's Continuing Disclosure Obligations ..... 36

\* \* \* \* \*

- EXHIBIT A - Description of Project
- EXHIBIT B - Estimated Principal Repayment Schedule
- EXHIBIT C - Estimated Costs of the Project
- EXHIBIT D - Form of Requisition

**LOAN AND PLEDGE AGREEMENT**

This **LOAN AND PLEDGE AGREEMENT**, which shall be dated for convenience as of \_\_\_\_\_, 2009, by and between:

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY** (the "Department"), an executive department and agency of the State of Louisiana, whose mailing address is P.O. Box 4303, Baton Rouge, Louisiana 70821-4303, appearing herein through Vince Sagnibene, Undersecretary, duly authorized hereunto pursuant to an executive order of the Secretary of the Department dated January 17, 2008b:\, and

The **PARISH OF ST. TAMMANY, STATE OF LOUISIANA** (the "Borrower"), a political subdivision of the State of Louisiana, whose mailing address is P.O. Box 628 Covington, Louisiana, appearing herein though Kevin C. Davis, Parish President, and Diane Hueschen, Council Clerk, both duly authorized hereunto pursuant to a General Bond Ordinance adopted by the governing authority of the Borrower on \_\_\_\_\_, 2009 and a First Supplemental Bond Ordinance adopted by the governing authority on \_\_\_\_\_, 2009;

**WITNESSETH:**

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

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

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

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

**WHEREAS**, the Borrower now owns and operates sewage collection, treatment and disposal systems and waterworks treatment and distribution systems as revenue-producing public utilities (collectively, the "System"); and

**WHEREAS**, the Borrower has made application to the Department for a loan from the State Revolving Fund to pay the costs related to the design and engineering of additions, improvements, and upgrades to the sewerage component of the System and the construction and acquisition of improvements to said sewerage components, including equipment and facilities therefor, which are works of public improvement for the Borrower, as generally described in Exhibit A hereto (the "Project"); and

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 21 OF 58

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

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

**WHEREAS**, the Borrower, by the General Bond Ordinance adopted on \_\_\_\_\_, 2009 and the First Supplemental Bond Ordinance adopted on \_\_\_\_\_ 2009, has authorized the incurring of debt and the issuance of \$1,000,000 of Sewer Revenue Bonds, Series 2009 (the "Bonds"), for the purpose of paying costs related to the design and engineering of additions, improvements, and upgrades to the sewerage component of the System and the construction and acquisition of improvements to said sewerage components, including equipment and facilities therefore and paying costs of issuance;

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

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

## ARTICLE I

**DEFINITIONS AND INTERPRETATION**

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

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

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

**"Authorizing Ordinance"** means collectively the ordinances adopted by the governing authority of the Borrower, authorizing the issuance of the Bonds and authorizing the sale of the Bonds to the Department, as they may be supplemented, modified or amended from time to time in accordance with their terms.

**"Bonds"** shall mean the Borrower's \$1,000,000 of Sewer Revenue Bonds, Series 2009, which are being issued by the Borrower for the purpose of paying Costs of the Project, sold to the Department and purchased by the Department from moneys in the State Revolving Fund.

**"Borrower"** means the Parish of St. Tammany, State of Louisiana, a political subdivision of the State, and its successors and assigns.

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

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

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

**"Contingencies Fund"** means the fund or account to be established or maintained in accordance with the Borrower's customary accounting practices, for the purposes set forth in the Authorizing Ordinance and described in the Authorizing Ordinance as the "Contingencies Fund."

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

**"Debt Service Fund"** means the fund or account to be established or maintained in accordance with the Borrower's customary accounting practices, into which the Borrower will periodically deposit funds for the payment of principal, Administrative Fee and interest on the Bonds, in the manner set forth in the Authorizing Ordinance.

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

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

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

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

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

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

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

**"Fiscal Year"** means the Borrower's one-year accounting period beginning on January 1 of each year or any other annual accounting period as may be determined by the Governing Authority as the fiscal year of the Borrower.

**"Funds and Accounts"** collectively means the Debt Service Fund, the Revenue Fund, the Reserve Fund and the Contingencies Fund

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

**"Interest Payment Date"** shall mean each date on which interest on the Bonds is payable, the first of which shall occur not more than six (6) months after the delivery of the Bonds to the Department and which shall occur semi-annually thereafter until the Bonds are paid in full, as determined by mutual agreement of the Borrower and the Department on the date of delivery of the Bonds and designated in the Bonds.

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

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

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

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

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

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

**"Parity Obligations"** means any additional *pari passu* indebtedness issued by the Borrower and payable from the same source of revenues on a parity with the Bonds.

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

**"Principal Payment Date"** means each annual principal payment date on the Bonds, which dates are set forth in the Authorizing Ordinance, the first of which shall occur no later than one (1) year after the Completion Date and the last of which shall occur no later than twenty (20) years after the Completion Date.

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

**"Registrar"** means the person designated as such in the Authorizing Ordinance, unless and until a successor Registrar shall have assumed such responsibilities pursuant to the applicable provisions of the Authorizing Ordinance and thereafter "Registrar" shall mean such successor Registrar.

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

**"Reserve Fund"** means the fund or account to be established or maintained in accordance with the Borrower's customary accounting practices, into which there shall be deposited from available funds of the Borrower, in the manner set forth in the Authorizing Ordinance (but not from the proceeds of the Loan unless specifically approved by the Department), a sum equal to the Reserve Fund Requirement, as defined in the Authorizing Ordinance.

**"Revenue Fund"** means the fund or account to be established or maintained in accordance with the Borrower's customary accounting practices, into which all revenues of the System shall be deposited in the manner set forth in the Authorizing Ordinance.

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

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

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

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

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

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

Rules of Interpretation

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

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

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

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

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

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

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

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

## ARTICLE II

**REPRESENTATIONS OF THE DEPARTMENT**

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

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

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

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

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

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

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

Representations of the Borrower. The Borrower represents and covenants as follows:

(a) The Borrower is a political subdivision of the State and has full legal right and authority and all necessary licenses and permits required as of the date hereof to own, operate and maintain the System, to carry on its activities relating thereto, to execute and deliver this Loan Agreement, to execute, issue and deliver the Bonds, to pledge the revenues necessary to secure the payment of the Bonds, to undertake and complete the Project and to carry out and consummate all transactions contemplated by this Loan Agreement.

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

(c) The Authorizing Ordinance was duly adopted by the Governing Authority and was published in the official journal of the Borrower no less than 30 days prior to the delivery date of the Bonds and since the said publication no actions or proceedings have been filed or

threatened contesting the legality of the Authorizing Ordinance, the Bonds or any provision for payment of the Bonds.

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

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

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

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

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

(i) The Borrower has obtained all permits and approvals required to date by any governmental body or officer (and reasonably expects to receive all permits required in the future by any governmental agency) for the making, observance and performance by the Borrower of its duties, covenants, obligations and agreements under this Loan Agreement and the Bonds or for the undertaking or completion of the Project and the financing or refinancing

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

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

(k) The Borrower has not previously pledged the revenues being used to repay the Bonds to the payment of any indebtedness of the Borrower or any other entity, other than the Parity Obligations, if any, defined in Section 1.01.

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

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

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

Tax-Exempt Status of Bonds. The Borrower covenants and agrees for the benefit of the Department that it will not take any action or omit to take any action, which action or omission would result in the loss of the exclusion of the interest on the Bonds or on any debt obligations now or hereafter issued by or on behalf of the Department from gross income for purposes of federal income taxation, as that status is governed by the Code. Furthermore, the Borrower will not take any action or fail to take any action that could cause the Bonds or any debt obligations now or hereafter issued by or on behalf of the Department to be "arbitrage bonds" or "private activity bonds" under the Code.

Neither the Borrower nor any of its political subdivisions shall purchase, pursuant to any arrangement, formal or informal, any debt obligations issued by or on behalf of the Department in an amount related to the amount of the Loan.

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

## ARTICLE III

**LOAN TO BORROWER; ISSUANCE OF BONDS**

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

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

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

Issuance of Bonds. As evidence of its obligation to repay the principal, interest and premium, if any, of the Loan, and to pay the Administrative Fee, the Borrower contemporaneously herewith has issued and delivered the Bonds to the Department, which Bonds are payable in the manner and from the sources set forth in the Authorizing Ordinance.

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

- (a) the Bonds duly executed;
- (b) if interest on the Bonds is intended to be exempt from federal income taxes, a non-arbitrage certificate executed by a duly authorized officer of the Borrower in form and substance satisfactory to the Department and an opinion of bond counsel to the Department or other bond counsel acceptable to the Department;
- (c) opinions of counsel to the Borrower substantially in form satisfactory to counsel to the Department;
- (d) an executed counterpart of this Loan Agreement;
- (e) certified copies of the Authorizing Ordinance and any other resolutions or ordinances of the Governing Authority authorizing the execution and delivery of this Loan Agreement and the Bonds; and
- (f) such other certificates, documents, opinions and information as the Department may reasonably require.

Interest and Principal Payments. The Bonds shall be payable as set forth in the Authorizing Ordinance and as follows:

- (a) Interest shall be payable semiannually in arrears on each Interest Payment Date based on the amount of the Loan theretofore paid by the Department to the Borrower; and
- (b) Principal shall be payable annually on each Principal Payment Date in the amounts set forth on Exhibit B hereto. Exhibit B has been prepared assuming that the full amount of the Bonds will be disbursed. In the event that less than the full amount of the Loan is

made to the Borrower, then the payment schedule shown as Exhibit B will be adjusted in the manner set forth in the Authorizing Ordinance and in this Loan Agreement.

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

In the event that any installment of principal, interest or Administrative Fee shall become past due for a period in excess of fifteen (15) days from the payment date specified herein, in addition to interest continuing to accrue on the principal amount due until the payment thereof, the Borrower shall pay upon demand an amount equal to five percent (5%) of the amount of such past-due installment to defray the expenses of handling the delinquent payment.

**Prepayment of Bonds.** The Department acknowledges that the Bonds are subject to prepayment at the times and in the manner set forth in the Bonds and in the Authorizing Ordinance. In addition to the principal, interest and premium, if any, on such prepayment date, the Borrower shall pay to the Department the amount of the Administrative Fee that has accrued on the amount prepaid from the most recent date on which any Administrative Fee was paid.

Prepayment shall be applied first to the Administrative Fee, second to accrued interest on the portion of the Bonds to be redeemed, then to any redemption or prepayment premium and finally to principal.

**Administrative Fee.** The Administrative Fee shall be payable to the Department on each Interest Payment Date. The Borrower's obligation to pay the Administrative Fee shall be terminated upon the sale or other disposition of the Bonds by the Department, other than a pledge or assignment of the Bonds or this Loan Agreement pursuant to Section 11.01, or upon full payment by the Borrower of the Bonds and all amounts owed the Department under this Loan Agreement. In the event that the Administrative Fee is declared illegal or unenforceable by a court or administrative body of competent jurisdiction, the interest rate borne by the Bonds shall be increased by one half of one percent (0.50%) *per annum*, effective as of the date declared to be the date from which the Administrative Fee is no longer owed because of such illegality or unenforceability.

**Manner of Repayment.** Payment of the principal, interest and premium on the Bonds, and payment of the Administrative Fee, shall be made by immediately available funds or mailed and/or made available to the Department no later than the applicable payment date at the following address:

Department of Environmental Quality  
Attn: Financial Services Division, Accounts Receivable  
P. O. Box 4311  
Baton Rouge, Louisiana 70821-4311

or such other address as may be designated by the Department, without presentation or surrender of the Bonds, except upon final payment. If acceptable to the Department, the Borrower may make arrangements to make such payments by wire transfer of immediately available funds.

Payments with respect to the Bonds shall be applied first to the interest due to the date of payment, next to principal and thereafter to the Administrative Fees and other amounts payable on the Loan and the payment of principal and interest shall be recorded on a payment record to be kept and maintained by the Department.

**Disclaimer of Warranties and Indemnification.** The Borrower acknowledges and agrees that:

(a) the Department and the State make no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or

fitness for any use of the System, the Project or any portions thereof or the Plans and Specifications or any other warranty or representation with respect thereto;

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

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

Registrar. The Borrower agrees to initially prepare, keep, and maintain books and records reflecting the authorization, issuance, transfer and assignment of the Bonds and has appointed the Registrar in the Authorizing Ordinance. A successor Registrar may be appointed in the manner set forth in the Authorizing Ordinance, provided, however, that in no event shall the Department be liable for the payment of any fees of such Registrar.

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

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

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 32 OF 58

ARTICLE IV

**PAYMENT OF BONDS; DEFEASANCE**

Pledge of Revenues. The Bonds, and to the extent allowed by applicable law all other sums due pursuant to this Loan Agreement, including the Administrative Fee, equally with the Parity Obligations, if any, shall be secured and payable from all revenues derived from user fees or service fees and other income received from the operation of the System, including moneys from the Environmental Service Fund, except those exclusions provided in the Authorizing Ordinance. The net revenues of the System shall be set aside in the Funds and Accounts described in the Authorizing Ordinance and shall be and remain so pledged for the security and payment of the Bonds in principal and interest, until the Bonds shall be fully paid and discharged. The Borrower agrees that it shall not further encumber the pledged revenues, to the payment of any indebtedness having an equal or superior lien to that enjoyed by the Bonds, other than through the issuance of Parity Obligations, or junior lien obligations, in the manner and under the conditions provided in the Authorizing Ordinance.

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

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

ARTICLE V

**FUNDS AND ACCOUNTS**

Funds and Accounts. For the purpose of receiving purchase price payments of the Bonds and paying Costs of the Project, the Borrower has established and agrees to maintain the Construction Fund to be administered in the manner set forth herein and in the Authorizing Ordinance. Additionally, for the payment of and further security for the principal, interest and Administrative Fee on the Bonds, the Borrower has established and agrees to maintain the Funds and Accounts to be administered in the manner set forth in the Authorizing Ordinance.

If at any time the Department deems, in its sole discretion, that the depository for any of the aforesaid funds and accounts to be unsatisfactory for whatever reason, then the Borrower agrees that it will transfer any or all of said funds to such depository as may be designated by the Department.

The Contingencies Fund shall be established and maintained in the manner provided in the Authorizing Ordinance, and the Contingencies Fund shall be maintained in the minimum amount set froth in the Authorizing Ordinance, unless moneys therein are required to be expended for purposes set forth in the Authorizing Ordinance, in which case the balance therein shall be replenished in the manner set forth in the Authorizing Ordinance.

Investments. All moneys in any of the Funds and Accounts shall be invested in investment securities permitted by State law and the Authorizing Ordinance. All income derived from such investments shall be added to the amounts in the respective funds, if required, or to the Revenue Fund or to such funds as may be designated in the Authorizing Ordinance, and such investments shall be liquidated to the extent at any time necessary to apply the proceeds thereof to the purpose for which the respective funds have been created. For the purpose of determining if the required amount is being maintained in any of the funds, such investment securities shall be valued at least annually at the lesser of amortized cost (exclusive of accrued interest) or fair market value.

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

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

## ARTICLE VI

**CONSTRUCTION AND COMPLETION OF THE PROJECT**

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

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

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

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

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

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

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

The Borrower will take and institute such proceedings as will be necessary to cause and require all contractors and materials suppliers to complete their contracts diligently and in accordance with the terms of the contracts, including without limitation, correcting any defective work.

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

Completion Certificate. The Project will be considered complete when the provisions of Section 7.08 have been met for all construction contracts included in the Project, or upon the

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 35 OF 58

disbursement of the final installment of the purchase price of the Bonds, whichever occurs first, and such date will be the Completion Date for purposes of this Loan Agreement. On or as soon as practicable after the Completion Date, the Borrower shall submit the Certificate of Substantial Completion required by Section 7.08(a) and shall certify to the Department when it has initiated or is capable of initiating operation of the Project. The Borrower shall also ratify and confirm in writing the final principal amount of the Loan and the final principal amortization schedule for the Loan.

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

## ARTICLE VII

**DISBURSEMENTS**

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

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

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

- (a) in connection with each disbursement, the Borrower shall submit a requisition in the form attached hereto as Exhibit E, which requisition shall include:
    - (i) an updated copy of the disbursement schedule (if applicable);
    - (ii) a certification of the Engineer, which shall be in form and substance satisfactory to the Department which shall state that the expenditures for which payment is requested are in accordance with the Plans and Specifications and the disbursement schedule;
    - (iii) if required by the Department, evidence satisfactory to the Department that the insurance required by Section 8.08 of this Loan Agreement remains in full force and effect;
    - (iv) such other instruments, documents, certificates, endorsements, invoices and opinions as the Department may reasonably require to substantiate the Costs of the Project for which payment is requested; and
    - (v) if the requisition is the final requisition, the Completion Certificate required by Section 6.05;
  - (b) disbursements shall be made not more frequently than twice per calendar month;
  - (c) each disbursement shall be subject to the review and approval of the Department;
- and
- (d) the amount of each disbursement shall be computed so that five (5%) percent, or such larger percentage as may be requested by the Borrower, of such disbursement constituting

eligible costs and one hundred (100%) percent of non-eligible costs will be deducted from the total amount payable as retainage or as non-eligible costs with respect to each contract for construction of the Project or any portion thereof. The total amount of retainage withheld from the disbursements during the construction of the Project with respect to each contract shall be disbursed pursuant to the provisions of Section 7.08.

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

**Reimbursement of Certain Costs.** The Borrower will promptly reimburse the Department for any portion of the Loan which is determined by the Department to have been expended for a cost which is not eligible for funding from the State Revolving Fund, which reimbursement will be made not more than 180 days after the discovery thereof by either the Borrower or the Department. Such reimbursement shall be promptly paid to the Department upon written request of the Department with interest on the amount reimbursed at the rate borne by the Bonds from the later of the date of the disbursement from which any such non-eligible item was paid or the last Interest Payment Date on which the Borrower paid interest with respect to said amounts, and shall be applied in inverse order of maturity against the outstanding principal amount of the Bonds.

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

- (a) verify that each disbursement is appropriate and in conformity with the requirements of this Article;
- (b) verify that all work covered by a proposed disbursement is in accordance with the Plans and Specifications;
- (c) determine whether there has been or may be any default of the obligations of the Borrower under this Loan Agreement or the Authorizing Ordinance; and
- (d) take any necessary or appropriate action to insure that the Project will be completed in a timely manner and in accordance with the Plans and Specifications and the disbursement schedule.

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

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

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

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

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

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

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

(f) a copy of any policy or policies of builder's all-risk insurance issued by an insurance company or companies acceptable to the Department, insuring the Project for its full replacement costs (or on a progressively full insured basis) with extended coverage, and said policy shall insure against such loss or damages as the Department may require, or the Borrower shall provide proof of self-insurance;

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

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

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

(j) a final site certificate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE VIII

**OPERATION OF THE SYSTEM**

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

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

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

- (a) at all times operate the properties of its System and any business in connection therewith in an efficient manner;
- (b) maintain the System in good repair working order and operating condition; and
- (c) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to the System so that at all times the business carried on in connection therewith shall be properly and advantageously conducted, provided, however, that this covenant shall not be construed as requiring the Borrower to expend any funds which are derived from sources other than the operation of its System or other receipts of such System which are not pledged hereunder, and provided further that nothing herein shall be construed as preventing the Borrower from doing so.

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

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

In addition to all other rights and remedies available to be used for the enforcement of sewerage charges and for the compelling of the making of sewerage connections as aforesaid, the Borrower covenants that it shall exercise and enforce promptly and efficiently all rights given it under the laws of the State for the enforcement and collection of such charges.

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

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

(b) pay debt service and Administrative Fee on the Bonds and any Parity Obligations and make all required deposits to the Funds and Accounts to the extent that such payments are not provided for from other sources of pledged revenues; and

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

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

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

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

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

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

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

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

To this end, the Borrower may retain an Engineer, but shall be required to do so only in accordance with provisions of Section 10.04, for the purpose of providing the Borrower with continuous engineering counsel in the operation of the System. The Engineer shall be retained

under contract at such reasonable compensation as may be fixed by the Borrower, and the payment of such compensation shall be considered to be one of the costs of maintaining and operating the System. Any Engineer appointed under the provisions of Section 10.04 may be replaced at any time by another Engineer appointed or retained by the Borrower upon written notice to the Department.

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

**Prohibition Against Liens.** Except as provided in Section 11.02, the Borrower will maintain title to or the possession of the System and equipment acquired and properties improved by the Project, including any necessary servitudes and rights-of-way acquired in connection with the Project. Title to any immovable equipment and any real property purchased by the Borrower in connection with the Project will remain free and clear of all liens and encumbrances. Furthermore, all movable property necessary for the operation of the System will remain free of all liens except liens necessary to secure the purchase of said movable equipment.

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

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

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

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

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 43 OF 58

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

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 44 OF 58

ARTICLE IX

**PARITY OBLIGATIONS**

Issuance of Additional Parity Obligations. Additional Parity Obligations may be issued in accordance with the provisions of and subject to the terms and conditions imposed by the Authorizing Ordinance, and with the prior written consent of the Department, to complete the acquisition and construction of the Project, to make additional improvements to the System or to refund or refinance any portion of the Loan or other Parity Obligations. Such consent shall not be necessary if all of the Bonds will be refunded with such additional Parity Obligations.

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

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

ARTICLE X

**DEFAULTS AND REMEDIES**

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

(a) Failure by the Borrower to pay, or cause to be paid, the principal of or interest on the Bonds or any other amount payable on the Loan other than the payment of the Administrative Fee when due;

(b) Failure by the Borrower to pay, or cause to be paid, the Administrative Fee or any portion thereof when due;

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

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

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

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

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

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

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

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

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

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

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

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

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

**No Remedy Exclusive; Waiver; Notice.** No remedy herein conferred upon or reserved to the Department is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other given under this Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. To entitle the Department to exercise any remedy reserved

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 47 OF 58

to it in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article.

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

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

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

## ARTICLE XI

## ASSIGNMENT

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

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

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

No assignment, transfer or sale shall relieve the Borrower from primary liability for any of its obligations under this Loan Agreement and in the event of such assignment, the Borrower shall continue to remain primarily liable for the performance and observance of its obligations to be performed and observed under this Loan Agreement.

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

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 49 OF 58

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

## ARTICLE XII

## MISCELLANEOUS

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

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

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

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

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

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

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

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

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

**Further Assurances.** The Borrower agrees, at the request of the Department to authorize, execute, acknowledge and deliver such further resolutions, ordinances, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights and agreements granted or intended to be granted by the Borrower under this Loan Agreement.

**Borrower to Cooperate in Rating and Issuance of Department's Bonds.** The Borrower acknowledges that the Department may assign the Bonds and this Loan Agreement as security for the payment of bonds issued by or on the Department's behalf, and that in order to facilitate the rating of any such bonds Borrower shall furnish to the Department, any issuer of any such bonds, or any nationally recognized rating agency, such documents and financial reports as may be reasonably required to obtain a rating for such bonds. Further, Borrower agrees to perform such acts and execute such further documents and certificates as may be reasonably required by the Department in connection with the issuance of any such bonds.

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 51 OF 58

Borrower's Continuing Disclosure Obligations. The Borrower hereby acknowledges and agrees that even though the Bonds are initially exempt from the continuing disclosure requirements of Rule 15c2-12(b)(5) of the Securities and Exchange Commission (the "Rule") pursuant to section (d)(1) and/or other exemptions to the Rule, in the event the Department should transfer the Bonds or the Bonds become a source of repayment of "municipal securities" sold through a "primary offering" (as both terms are defined and used in the Rule), it is possible that the Borrower could constitute an "obligated person" as defined and used in the Rule. In that case, the Borrower agrees to comply with the continuing disclosure requirements of the Rule.

**[SIGNATURES ON NEXT PAGE]**

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 52 OF 58

IN WITNESS WHEREOF, the Department and the Borrower have caused this Loan Agreement to be executed, sealed and delivered on this \_\_\_\_ day of \_\_\_\_\_, 2009, but dated for convenience of the parties as of the date first above-written.

LOUISIANA DEPARTMENT OF  
ENVIRONMENTAL QUALITY

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

PARISH OF ST. TAMMANY,  
STATE OF LOUISIANA

ATTEST:

By: \_\_\_\_\_  
Parish President

By: \_\_\_\_\_  
Council Clerk

(SEAL)

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 53 OF 58

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

**DESCRIPTION OF PROJECT**

To pay the costs related to the design and engineering of additions, improvements, and upgrades to the sewerage component of the System and the construction and acquisition of improvements to said sewerage components, including equipment and facilities therefor.

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 54 OF 58

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

**ESTIMATED PRINCIPAL REPAYMENT SCHEDULE**

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 55 OF 58

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

**ESTIMATED COSTS OF THE PROJECT**

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 56 OF 58

**EXHIBIT D**  
**to Loan and Pledge Agreement**

**FORM OF REQUISITION**

ORDINANCE CALENDER NO. \_\_\_\_\_

ORDINANCE C.S. NO. \_\_\_\_\_

PAGE 57 OF 58

STATE OF LOUISIANA

PARISH OF ST. TAMMANY

I, the undersigned Council Clerk of the St. Tammany Parish Council, do hereby certify that the foregoing \_\_\_\_\_ (\_\_\_\_) pages constitute a true and correct copy of an ordinance by said Parish Council on \_\_\_\_\_, 2009, authorizing the issuance of not exceeding \$1,000,000 of Utilities Revenue Bonds, Series 2009, of the Parish of St. Tammany, State of Louisiana, in accordance with the terms of a General Bond Ordinance adopted on \_\_\_\_\_, 2009; prescribing the form, and certain terms and conditions of said bonds; and providing for other matters in connection therewith.

IN FAITH WHEREOF, witness my official signature and the impress of the official seal of said Parish Council on this, the \_\_\_\_ day of \_\_\_\_\_, 2008.

(SEAL)

\_\_\_\_\_  
Council Clerk

**From:** Cassie Day [Cassie@FoleyJudell.com]  
**Sent:** Tuesday, May 26, 2009 4:44 PM  
**To:** Theresa L. Ford  
**Cc:** Mike Sevante; Greg Gordon; Alan Offner; Penny Robinson  
**Subject:** RE: St. Tammany Parish Utility Revenue Bonds, Series 2009  
**Attachments:** General Bond Resolution.wpd; Supplemental Bond Resolution with Att B.wpd

The issuance of the Bonds has already been delayed two months as we were awaiting information from DEQ concerning changes it would require in bond documents due to the American Recovery and Reinvestment Act of 2009. By going forward at this time, the Parish should be able to receive its first advance of the proceeds of the Bonds in August. This will put in place the necessary funding for basic engineering costs for the Parish's sewerage improvement project.

By copy of this e-mail to Greg Gordon, we request that he confirm to you the name of the Councilman who will sponsor the ordinance.

Cassie Day  
Foley & Judell, L.L.P.  
365 Canal Street, Suite 2600  
New Orleans, Louisiana 70130  
Tel: (504)568-1249  
Fax: (504)565-3900  
Email: [cday@foleyjudell.com](mailto:cday@foleyjudell.com)