

---

---

**WATER LOAN AGREEMENT**

Dated as of May 7, 2013

By and Between

**CITY OF LEMOORE**

And

**PINNACLE PUBLIC FINANCE, INC.**

Providing for the

\$7,217,155  
CITY OF LEMOORE  
SERIES 2013 WATER REVENUE LOAN  
(2013 SOLAR PROJECT)

---

**TABLE OF CONTENTS**

Page

**ARTICLE I  
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICABILITY**

Section 1.1. Definitions.....2  
Section 1.2. Liability of City Limited to Net Revenues .....8  
Section 1.3. Benefits of Loan Agreement Limited to Parties .....8  
Section 1.4. Successor Is Deemed Included in all References to Predecessor .....8  
Section 1.5. Waiver of Personal Liability .....8  
Section 1.6. Article and Section Headings, Gender and References .....8  
Section 1.7. Partial Invalidity.....9

**ARTICLE II  
REPRESENTATIONS OF THE CITY**

Section 2.1. Representations of the City .....9

**ARTICLE III  
TERMS OF THE LOAN**

Section 3.1. Obligation to Make Loan; Amount and Application of Loan Proceeds .....11  
Section 3.2. Acquisition and Construction of the Project .....11  
Section 3.3. Term of the Loan .....11  
Section 3.4. Optional Prepayment .....12  
Section 3.5. Prepayment Upon Casualty Loss or Governmental Taking .....12  
Section 3.6. Execution of the Loan .....12  
Section 3.7. Project Fund .....12  
Section 3.8. Application of Project Fund .....12  
Section 3.9. Reserved.....12  
Section 3.10. Assignment by the Lender .....12  
Section 3.11. Closing Conditions.....13

**ARTICLE IV  
SECURITY**

Section 4.1. Pledge of Net Revenues .....14  
Section 4.2. Repayment of the Loan .....14  
Section 4.3. Revenues; Application of Revenue Fund .....15  
Section 4.4. Special Obligation of the City; Obligations Absolute .....16  
Section 4.5. Reduction upon Partial Prepayment.....16  
Section 4.6. Rate on Overdue Loan Payments.....17

**ARTICLE V  
COVENANTS OF THE CITY**

Section 5.1. Operation and Maintenance of the Enterprise .....18  
Section 5.2. Against Sale or Other Disposition of Property .....18  
Section 5.3. Rates, Fees, and Charges .....18  
Section 5.4. Collection of Rates and Charges.....19  
Section 5.5. Competitive Facilities .....19

**TABLE OF CONTENTS (Cont.)**

	<u>Page</u>
Section 5.6. Insurance .....	19
Section 5.7. Eminent Domain .....	20
Section 5.8. Additional Information .....	21
Section 5.9. Compliance with Law and Contracts.....	21
Section 5.10. Punctual Payment.....	21
Section 5.11. Reserved.....	21
Section 5.12. Protection of Security and Rights of the Lender.....	21
Section 5.13. Parity Obligations .....	21
Section 5.14. Against Encumbrances.....	23
Section 5.15. Further Assurances.....	23
Section 5.16. Financial Reports .....	23
Section 5.17. Opinion of City Attorney .....	23
Section 5.18. Observance of Laws and Regulations.....	24
Section 5.19. Private Activity Bond Limitation.....	24
Section 5.20. Federal Guarantee Prohibition .....	24
Section 5.21. Maintenance of Tax Exemption.....	24
Section 5.22. Rebate Requirement.....	24
Section 5.23. No Arbitrage .....	25
Section 5.24. Budget .....	25
Section 5.25. Notices .....	25

**ARTICLE VI  
EVENTS OF DEFAULT AND REMEDIES**

Section 6.1. Events of Default and Remedies.....	26
Section 6.2. Application of Funds Upon Acceleration .....	27
Section 6.3. Other Remedies of the Lender .....	28
Section 6.4. Non-Waiver.....	28
Section 6.5. Remedies Not Exclusive.....	28
Section 6.6. Prosecution and Defense of Suits .....	28

**ARTICLE VII  
EVENTS OF DEFAULT AND REMEDIES**

Section 7.1. Notices .....	29
Section 7.2. Judicial Reference.....	29

**ARTICLE VIII  
AMENDMENTS; DISCHARGE; GENERAL AUTHORIZATION; EFFECTIVE DATE**

Section 8.1. Amendments Permitted.....	30
Section 8.2. Discharge of Loan Agreement .....	31
Section 8.3. General Authorization.....	31
Section 8.4. Binding Effect.....	31
Section 8.5. Severability .....	32
Section 8.6. Further Assurances and Corrective Instruments .....	32
Section 8.7. Applicable Law .....	32
Section 8.8. Captions .....	32
Section 8.9. Agreement to Pay Attorneys' Fees and Expenses .....	32

*TABLE OF CONTENTS (Cont.)*

	<u>Page</u>
Section 8.10. Execution in Counterparts.....	32
EXHIBIT A Loan Payment Schedule.....	A-1
EXHIBIT B Description of Project .....	B-1

## **WATER LOAN AGREEMENT**

**THIS WATER LOAN AGREEMENT**, (this “Loan Agreement”), dated for convenience as of May 1, 2013, is by and between PINNACLE PUBLIC FINANCE, INC., a Delaware corporation duly organized and existing under the laws of the State of Delaware, with all right and authority to conduct business in the State of California (the “Lender”), and the CITY OF LEMOORE, a municipal corporation and charter city, duly organized and existing under the laws of the State of California (the “City”);

### **WITNESSETH:**

**WHEREAS**, the City presently owns and operates certain facilities and property for its domestic water system (the “Enterprise”), and in order to finance the acquisition and construction of various capital improvements to the Enterprise, the City proposes to accept a tax-exempt loan, hereby designated the “City of Lemoore, Series 2013 Water Revenue Loan (Series 2013 Solar Project)” (the “Loan”) from the Lender pursuant to terms and conditions of this Loan Agreement; and

**WHEREAS**, the principal of and interest and redemption premium (if any) on the Loan, and any bonds or other obligations issued on a parity therewith as provided herein, will be payable from and secured by a pledge of and lien on the Net Revenues derived from the Enterprise, as expressly set forth in this Loan Agreement; and

**WHEREAS**, in order to provide for the execution and delivery of this Loan Agreement, to establish and declare the terms and conditions upon which the Loan is to be made and secured, and to secure the payment of the principal thereof, premium (if any) and interest thereon, the City has authorized the execution and delivery of this Loan Agreement; and

**WHEREAS**, all things necessary to make the Loan when issued, executed and delivered, the valid and binding obligation of the City, and to constitute this Loan Agreement as a valid pledge of the revenues herein pledged to the payment of the principal of, prepayment premium, if any, and interest on the Loan have been done and performed, as required by law, and the City is now fully authorized to enter into this Loan Agreement, subject to the terms hereof;

**NOW, THEREFORE, THIS LOAN AGREEMENT WITNESSETH**, that in order to secure the payment of the principal of and the interest and premium (if any) on the Loan at any time Outstanding under this Loan Agreement, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Loan is premised, and in consideration of the premises and of the mutual covenants herein contained and of the making of the Loan by the Lender, and for other valuable considerations, the receipt whereof is hereby acknowledged, the City does hereby covenant and agree, for the benefit of the Lender from time to time of the Loan, as follows:

## ARTICLE I

### DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICABILITY

Section 1.1. Definitions. Unless the context otherwise requires, the terms defined in this section shall for all purposes hereof and of any amendment hereof or supplement hereto and of any report or other document mentioned herein or therein have the meanings defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein.

“Acquisition,” “Acquire” or “Acquisition and Construction” means, with respect to any portion of the Project, the acquisition, construction, improvement, equipping, renovation, remodeling or reconstruction thereof.

“Authorized Representative” means the City’s Mayor, Mayor Pro Tem, City Manager, Finance Director, City Clerk, or any other person designated as an Authorized Representative of the City by a Certificate of the City signed by its Mayor, Mayor Pro Tem, or City Manager and filed with the City.

“Additional Revenues” means, with respect to the issuance of any Parity Obligations, an allowance for Net Revenues (i) arising from any increase in the charges made for service from the Enterprise, adopted prior to the incurring of such Parity Obligations and effective within eighteen (18) months following the date of incurring such Parity Obligations, in an amount equal to the total amount by which the Net Revenues for the Enterprise would have been increased if such increase in charges had been in effect during the whole of the most recent completed Fiscal Year or during any more recent twelve (12) month period selected by the City, and (ii) arising from any increase in service connections to the Enterprise, prior to the incurring of such Parity Obligations, in an amount equal to the total amount by which the Net Revenues for the Enterprise would have been increased if such connections had been in existence during the whole of the most recent complete Fiscal Year or during any more recent twelve (12) month period selected by the City, all as shown by the certificate or opinion of an Independent Financial Consultant.

“Bond Counsel” means a firm of nationally-recognized attorneys experienced in the issuance of obligations the interest on which is excludable from gross income under Section 103 of the Code.

“Certificate,” “Request” and “Requisition” of the City means a written certificate, request or requisition signed in the name of the City by its Authorized Representative. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

“City” means the City of Lemoore, a municipal corporation and charter city duly organized and existing under and by virtue of the laws of the State of California.

“Council” means the City Council of the City.

“City Manager” means the City Manager of the City, or any other person designated by the City Manager to act on behalf of the City Manager.

“Code” means the Internal Revenue Code of 1986, as amended. Each reference to a section of the Code herein shall be deemed to include the United States Treasury regulations, including temporary and proposed regulations relating to each such section that are applicable to the Parity Obligations or the use of the proceeds thereof.

“Closing Date” means the date on which the Loan is funded by the Lender.

“Debt Service” means, for any Fiscal Year, the sum of (1) the interest falling due during such Fiscal Year on all Parity Obligations (that are outstanding under the documents or agreements pursuant to which they were issued), assuming that all outstanding serial Parity Obligations are retired as scheduled and that all outstanding term Parity Obligations are redeemed from sinking fund payments as scheduled (except to the extent that such interest has been fully capitalized and is invested in Federal Securities that mature at times and in such amounts as are necessary to pay the interest to which such amounts are pledged), (2) the principal amount of all serial Parity Obligations (that are outstanding under the documents or agreements pursuant to which they were issued) falling due by their terms during such Fiscal Year, and (3) the minimum amount of term Parity Obligations (that are outstanding under the documents or agreements pursuant to which they were issued) required to be paid or called and redeemed during such Fiscal Year, together with the redemption premiums, if any, thereon; provided that, whenever interest as described herein accrues at other than a fixed rate, such interest shall be assumed to be a rate equal to the greater of (i) the actual rate on the date of calculation, or if the Parity Obligations are not yet outstanding, the initial rate (if established and binding), (ii) if the Parity Obligations have been outstanding for at least twelve months, the average rate over the twelve months immediately preceding the date of calculation, and (iii) (x) if interest on the Parity Obligations is excludable from gross income under the applicable provisions of the Code, the most recently published The Bond Buyer Bond Revenue Index (or comparable index if no longer published) plus one hundred fifty (150) basis points, or (y) if interest is not so excludable, the interest rate on direct U.S. Treasury Obligations with comparable maturities, plus one hundred fifty (150) basis points.

“Default Rate” means a rate of interest equal to the interest rate with respect to the Loan Payments, plus 3%.

“Enterprise” means, collectively, the entire water collection, storage, treatment, transmission and distribution system now owned or operated by the City, and all other properties, structures or works hereafter acquired and constructed by the City and determined to be a part of the Water Enterprise, including, but not limited to, any and all properties and assets, real and personal, tangible and intangible, of the City, now or hereafter existing, used or pertaining to the collection, storage, treatment, transmission and distribution system, including all contractual rights to water supply and transmission, as well as all pipes, valves, machinery and all other appurtenances necessary, useful or convenient for the collection, storage, treatment, transmission and distribution of water, and any necessary lands, rights of way and other real or personal property useful in connection therewith, and all additions, extensions, expansions, improvements and betterments thereto and equipments thereof.

“Event of Default” means an event described in Section 6.1 hereof.

“Federal Securities” means direct obligations of (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States), or obligations the timely payment of the principal of and interest on which are fully and unconditionally guaranteed by, the United States of America.

“Fiscal Year” means any twelve-month period extending from July 1 in one calendar year to June 30 of the succeeding calendar year, both dates inclusive, or any other twelve-month period selected and designated by the City, as applicable, as its official fiscal year period.

“Generally Accepted Accounting Principles” means the uniform accounting and reporting procedures prescribed by the California State Controller or his or her successor for special districts in the State of California, or failing the prescription of such procedures means generally accepted accounting principles as presented and recommended by the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Council or its successor.

“Governmental Authority” means any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government, or any arbitrator, mediator or other person with authority to bind a party at law.

“Independent Certified Public Accountant” means any firm of certified public accountants appointed by the City that is independent according to the Statement of Auditing Standards No. 1 of the American Institute of Certified Public Accountants.

“Independent Engineer” means any registered engineer or firm of engineers generally recognized to be well-qualified in engineering matters relating to water systems similar to the Enterprise, appointed and paid by the City, and who or each of whom:

- (1) is in fact independent and not under the domination of the City;
  - (2) does not have a substantial financial interest, direct or indirect, in the City;
- and
- (3) is not connected with the City as a board member, officer or employee of the City, but may be regularly retained to make reports to the City.

“Independent Financial Consultant” means a financial consultant qualified in the field of municipal finance, appointed and paid by the City, and who:

- (1) is in fact independent and not under the domination of the City or any member thereof;
- (2) does not have a substantial financial interest, direct or indirect, in the operations of the City; and

(3) is not connected with the City as an officer or employee of the City or any member thereof, but may be regularly retained to audit the accounting records of and make reports thereon to the City.

“Insurance Consultant” means any nationally recognized independent actuary, insurance company or broker that has actuarial personnel knowledgeable with respect to insurance carried, by, required for and available to special districts operating facilities similar to the Enterprise, including a pooled self-insurance program in which premiums are established on the basis of the recommendation of an actuary of national reputation.

“Interest Component” means the portion of each Loan Payment designated as Interest Component, as such is set forth on Exhibit A hereto.

“Lender” means (a) initially, Pinnacle Public Finance, Inc., a Delaware corporation, or (b) any assignee or transferee of any right, title or interest of the Loan, including the right, title and interest in this Loan Agreement and other amounts due hereunder.

“Loan” means the City of Lemoore, Series 2013 Water Revenue Loan (Series 2013 Solar Project), made pursuant to this Loan Agreement.

“Loan Payments” means all payments required to be paid by the City, as such is set forth on Exhibit A hereto, on each Loan Payment Date pursuant to Section 4.2, and including any prepayment thereof pursuant to Section 3.4 or 3.5 hereof.

“Loan Proceeds” means the \$7,217,155 amount received by the City from the Lender.

“Loan Payment Date” or “Payment Date” means November 1 and May 1 in each year, commencing November 1, 2013 and continuing to and including the date on which the Loan Payments have been paid in full.

“Maintenance and Operation Costs” means the reasonable and necessary costs and expenses paid or incurred by the City for maintaining and operating the Enterprise, determined in accordance with Generally Accepted Accounting Principles, including but not limited to (a) costs of acquisition of water, including all associated treatment and delivery costs, to be used by the Enterprise, (b) costs of electricity and other forms of energy supplied to the Enterprise, (c) the reasonable expenses of management and repair and other costs and expenses necessary to maintain and preserve the Enterprise in good repair and working order, (d) the reasonable administrative costs of the City attributable to the operation and maintenance of the Enterprise, such as salaries and wages of employees, overhead, taxes (if any) and insurance premiums, and (e) all other reasonable and necessary costs of the City or charges required to be paid by it to comply with the terms hereof or of any resolution authorizing the issuance of any Parity Obligations or of such Parity Obligations, such as compensation, reimbursement and indemnification of the trustee for any such Parity Obligations and fees and expenses of Independent Certified Public Accountants and independent engineers, but in all cases excluding (i) debt service payable on obligations incurred by the City with respect to the Enterprise, (ii) depreciation, replacement and obsolescence charges or reserves therefor, and (iii) amortization of intangibles or other bookkeeping entries of a similar nature.

“Material Litigation” means any action, suit, proceeding, inquiry or investigation against the City in any court or before any arbitrator of any kind or before or by any Governmental Authority, of which the City has notice or knowledge and which, (i) if determined adversely to the City, may have a Material Adverse Effect, (ii) seek to restrain or enjoin any of the transactions contemplated hereby, or (iii) may adversely affect (A) the exclusion of interest with respect to the Loan Payments from gross income for federal income tax purposes or the exemption of such interest for state income tax purposes or (B) the ability of the City to perform its obligations under this Loan Agreement.

“Material Adverse Effect” means an event or occurrence which adversely affects in a material manner (a) the assets, liabilities, condition (financial or otherwise), business, facilities or operations of the City, (b) the ability of the Distinct to carry out its business in the manner conducted as of the date of this Loan Agreement or to meet or perform its obligations under this Loan Agreement on a timely basis, (c) the validity or enforceability of this Loan Agreement, or (d) the exclusion of interest with respect to the Loan Payments from gross income for federal income tax purposes or the exemption of such interest for state income tax purposes.

“Maximum Annual Debt Service” means the greatest amount of Debt Service with respect to the Parity Obligations to which reference is made coming due in any Fiscal Year including the Fiscal Year in which the calculation is made or any subsequent Fiscal Year.

“Net Proceeds” means, when used with respect to any condemnation award or with respect to any insurance proceeds, the amount of such condemnation award or such insurance proceeds remaining after payment of all reasonable expenses (including attorneys’ fees) incurred in the collection of such award or such proceeds.

“Net Revenues” means for any period, all of the Revenues during such period less all of the Maintenance and Operation Costs during such period.

“Parity Obligations” means the Loan Payments, and all other bonds, notes, loan agreements, installment sale agreements, leases, or other obligations of the City payable from and secured by a pledge of and lien upon any of the Net Revenues incurred on a parity with the Loan, issued in accordance with Section 5.13 hereof.

“Parity Payments” means all payments scheduled to be paid by the City under Parity Obligations.

“Principal Component” means the portion of each Loan Payment designated as Principal Component, as such is set forth on Exhibit A hereto.

“Project” means the land, improvements, equipment and other property comprising the project described more fully in Exhibit B attached hereto and by this reference incorporated herein, as such description may be amended by the City from time to time pursuant to and in accordance with the terms hereof.

“Project Fund” means the fund by that name established pursuant to Section \_\_. \_\_ hereto.

“Registration Books” means the records maintained by the City pursuant to Section 2.06 for the registration and transfer of ownership of the Loan.

“Resolution” means the Resolution No. 2013-11, adopted by the City Council of the City on May 7, 2013, authorizing the execution and delivery of this Loan Agreement, and otherwise providing for the execution and delivery of the Loan.

“Revenue Fund” means the fund by that name established and maintained pursuant to Section 4.2 hereof.

“Revenues” means all gross income and revenue received or receivable by the City from the ownership and operation of the Enterprise, calculated in accordance with Generally Accepted Accounting Principles, including all rates, fees, charges (including connection fees), insurance proceeds and condemnation awards received by the City and all other income and revenue howsoever derived by the City from the Enterprise; provided, however, that (i) any specific charges levied for the express purpose of reimbursing others for all or a portion of the cost of the acquisition or construction of specific water facilities, (ii) grants that are designated by the grantor for a specific water purpose and are therefore not available for other purposes, (iii) customers’ water related deposits or any other water related deposits subject to refund until such deposits have become the property of the City, (iv) the proceeds of any *ad valorem* property taxes, and (v) the proceeds of any special assessments or special taxes levied upon real property within any improvement City served by the City for the purpose of paying special assessment bonds or special tax obligations of the City relating to the Enterprise, are not Revenues and are not subject to the lien hereof. Notwithstanding the foregoing, there shall be deducted from Revenues any amounts (of Revenues) transferred into the Rate Stabilization Fund as contemplated by Section 5.3(d) hereof, and there shall be added to Revenues any amounts transferred out of the Rate Stabilization Fund and into the Revenue Fund, as contemplated by Section 5.3(d) hereof.

“State” means the State of California.

“Subordinate Debt” means indebtedness or other obligations (including but not limited to leases and installment sale agreements) hereafter issued or incurred and secured by a pledge of and lien on Net Revenues subordinate to the pledge and lien securing the Loan Payments.

“Tax Regulations” means temporary and permanent regulations promulgated under or with respect to Sections 103, 141, 148 and all related sections of the Code.

“Term” or “Term of this Loan Agreement” means the time during which this Loan Agreement is in effect, as provided in Section 3.3 hereof.

Section 1.2. Liability of City Limited to Net Revenues. Notwithstanding anything to the contrary contained in this Loan Agreement, the City shall not be required to advance any money derived from the proceeds of any taxes collected for the use and benefit of the City, or from any source of income other than the Net Revenues, for the payment of the principal of or interest or prepayment premiums, if any, on the Loan or for the performance of any covenants herein contained, nor for the maintenance and operation of the Enterprise from any source of income other than the Revenues. The City may, however, advance funds for any such purpose so long as such funds are derived from a source legally available for such purpose without incurring any indebtedness.

The Loan shall be payable exclusively from the Net Revenues as in this Loan Agreement provided. The credit or taxing power of the City is not pledged for the payment of the Loan or its interest. The Lender shall never have the right to compel the exercise of the taxing power of the City. The principal of and interest on the Loan and any prepayment premiums upon the prepayment thereof shall not be a debt of the City, nor a legal or equitable pledge of, or charge, lien or encumbrance upon, any of the property of the City or any of its income, receipts, or revenues, except the Net Revenues pledged to the payment thereof as provided in this Loan Agreement.

Section 1.3. Benefits of Loan Agreement Limited to Parties. Nothing contained herein, expressed or implied, is intended to give to any person other than the City and the Lender any right, remedy or claim under or pursuant hereto. Any agreement or covenant required herein to be performed by or on behalf of the City shall be for the sole and exclusive benefit of the Lender.

Section 1.4. Successor Is Deemed Included in all References to Predecessor. Whenever the City is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the City, and all agreements and covenants required hereby to be performed by or on behalf of the City shall bind and inure to the benefit of the successors thereof whether so expressed or not.

Section 1.5. Waiver of Personal Liability. No member of the Council and no officer, agent, or employee of the City, or of any department or agency thereof, shall be individually or personally liable for the payment of the principal of or interest on the Loan, but nothing contained herein shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law or hereby.

Section 1.6. Article and Section Headings, Gender and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof. Words of any gender shall be deemed and construed to include all genders. All references herein to "Articles," "Sections" and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words "hereby," "herein," "hereof," "hereto," "herewith" and other words of similar import refer to the Loan Agreement as a whole and not to any particular article, section, subdivision or clause hereof.

Section 1.7. Partial Invalidation. If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the City shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof or the Loan; but the Lender shall retain all the rights and benefits accorded to it under any applicable provisions of law. The City hereby declares that it would have adopted this Loan Agreement and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof irrespective of the fact that any one or more articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

## ARTICLE II

### REPRESENTATIONS OF THE CITY

Section 2.1. Representations of the City. The City makes the following representations:

- (a) The City is a municipal corporation and charter city duly organized and existing under and pursuant to the laws of the State of California.
- (b) The City has full legal right, power and authority to enter into this Loan Agreement and to enter into the transactions contemplated herein, and to carry out its obligations under the Loan Agreement and the transactions contemplated herein, and to carry out its obligations hereunder and thereunder.
- (c) With the exception of the pledge of the Net Revenues hereunder, the Net Revenues have not otherwise been pledged and there are no other liens against the Net Revenues, senior to, or on parity with the Loan Payments.
- (d) The City's comprehensive annual financial report for the period ended June 30, 2012, presents fairly the financial condition of the City and the Enterprise as of the date hereof and the results of operation for the period covered thereby. Except as has been disclosed to the Lender, there has been no change in the financial condition of the City or the Enterprise since June 30, 2012, that will in the reasonable opinion of the City materially impair its ability to perform its obligations under this Loan Agreement. All information provided by the City to the Lender with respect to the financial performance of the Enterprise is accurate in all material respects as of its respective date and does not omit any information necessary to make the information provided not misleading.
- (e) As currently conducted, the City's activities with respect to the Enterprise are in all material respects in compliance with all applicable laws, administrative regulations of the State of California and of the United States and any agency or instrumentality of either, and any judgment or decree to which the City is subject.
- (f) The City has never non-appropriated or defaulted under any of its payment or performance obligations or covenants, or any obligation of the same general nature as the Loan, or under any of its bonds, notes, or other obligations of indebtedness for which its revenues or general credit are pledged.
- (g) Prior to making any voluntary disclosures of this Loan Agreement with the Municipal Securities Rulemaking Council's Electronic Municipal Market Access or another similar disseminating agent or organization, the City will provide the Lender and its counsel a reasonable opportunity to review and approve such voluntary disclosure, and, if appropriate, redact any private or confidential information.

- (h) As long as the Loan of the City is outstanding, the City will notify the Lender or its designee, within 10 days, following the date of an event that will have a material impact on the financial condition of the City.
- (i) Neither the execution and delivery of this Loan Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a material breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the City is now a party or by which the City is bound or constitutes a default under any of the foregoing.
- (j) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the best knowledge of the City, threatened against or affecting the City or affecting the corporate existence of the City or the titles of its officers to their respective offices or seeking to prohibit, restrain or enjoin the entering into of this Loan Agreement or in any way contesting or affecting the transactions contemplated hereby or thereby or the validity or enforceability of this Loan Agreement or contesting the powers of the City or any authority for the execution and delivery of this Loan Agreement.
- (k) The Loan Agreement is a valid and binding obligation of the City enforceable in accordance with its terms.
- (l) The City has duly authorized and executed this Loan Agreement in accordance with the laws of the State.
- (m) No consent or approval of any trustee or holder of any indebtedness of the City or of the voters of the City, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Loan Agreement, or the consummation of any transaction herein contemplated, except as have been obtained or made and as are in full force and effect.
- (n) Since the most current date of the information, financial or otherwise, supplied by the City to the Lender:
  - (i) There has been no change in the assets, liabilities, financial position or results of operations of the City which might reasonably be anticipated to cause a Material Adverse Effect;
  - (ii) The City has not incurred any obligations or liabilities which might reasonably be anticipated to cause a Material Adverse Effect; and
  - (iii) The City has not (A) incurred any material indebtedness, other than the Loan Payments and trade accounts payable arising in the ordinary course of the City's business and not past due, or (B) guaranteed the indebtedness of any other person.

## ARTICLE III

### TERMS OF THE LOAN

Section 3.1. Obligation to Make Loan; Amount and Application of Loan Proceeds. The Lender hereby agrees to lend to the City, and the City hereby agrees to borrow from the Lender, the amount of \$7,217,155 under the terms and provisions set forth in this Loan Agreement. The Loan shall be made by the Lender to the City in immediately available funds on the Closing Date. The Lender hereby agrees to apply a portion of the Loan Proceeds in the amount of \$68,000 to be applied to pay the costs incurred in connection with the making of the Loan, as directed in writing by the City. The City agrees on the Closing Date to direct that the remaining balance of the Loan Proceeds, in the amount of \$7,149,155 be wire transferred to the City for deposit into the Project Fund, for the purpose of paying Project Costs. The Loan Proceeds are estimated to be sufficient to pay the estimated Acquisition and Construction Costs of the Project and the Cost of Issuance. In the event said amount in the Project Fund is insufficient to pay the construction cost for the Project, the City agrees to contribute the amount necessary to pay the balance of the Acquisition and Construction Costs. The City agrees that the payment of such contribution will have no effect on the City's obligations created in this Loan Agreement.

Section 3.2. Acquisition and Construction of the Project. The City hereby agrees with due diligence to supervise and provide for, or cause to be supervised and provided, for the Acquisition and Construction of the Project in accordance with plans and specifications, purchase orders, construction contracts and other documents relating thereto and approved by the City pursuant to all applicable requirements of law. Direct payment of the Project Costs shall be made from amounts on deposit in the Project Fund, pursuant to Section 3.7 hereto. All contracts for, and all work relating to, the Acquisition and Construction of the Project shall be subject to all applicable provisions of law relating to the acquisition and construction of public works by the City. The City expects that the Acquisition and Construction of the Project will be completed on or before May 1, 2015; provided, however, that the failure to complete any Project by the estimated Completion Date thereof shall not constitute an Event of Default hereunder or a grounds for termination hereof, nor shall such failure result in the diminution, abatement or extinguishment of the obligations of the City hereunder.

The City shall have the right from time to time in its sole discretion to amend the description of the Project to be financed by the City hereunder. In order to exercise such right, the City shall file with the Lender an amended Exhibit B hereto.

Upon the completion of the Acquisition and Construction of the Project, the amounts, if any, on deposit in the Project Fund shall be transferred by the City for deposit in the Enterprise utility fund and the City shall close the Project Fund.

Section 3.3. Term of the Loan. The Term of this Loan Agreement shall commence on the Closing Date, and shall end on the date on which the Loan shall be paid in full or provision for such payment shall be made as provided herein.

Section 3.4. Optional Prepayment. [On and after October 1, 2018, the City shall have the option to prepay the unpaid Principal Components of the Loan in whole or in part (but if in part, only in minimum increments of \$100,000; except in the case where the total unpaid Principal Components is less than \$100,000, which then may be paid in full for the remaining balance thereof), on any date, by paying a prepayment price equal to the aggregate amount of Principal Components to be prepaid, together with the interest required to be paid thereon on such Loan Payment Date, plus a prepayment penalty of one percent (1%).]

The City shall give the Lender notice of its intention to exercise its option not less than thirty (30) days in advance of the date of exercise.

Section 3.5. Prepayment upon Casualty Loss or Governmental Taking. At its option, and upon thirty (30) days' prior written notice to the Lender, the Loan shall be subject to prepayment as a whole or in part on any date, from the Net Proceeds of casualty insurance or a governmental taking of the Enterprise or portions thereof by eminent domain proceedings, under the circumstances and upon the conditions and terms prescribed herein, at a prepayment price equal to the sum of the principal prepaid plus accrued interest thereon to the date fixed for prepayment, together with a premium in the amount set forth in Section 3.4 hereof.

Section 3.6. Execution of the Loan Agreement. The execution of this Loan Agreement by an Authorized Representative shall constitute conclusive evidence of such officers' and the Council's approval hereof, including any changes, insertions, revisions, corrections, or amendments as may have been made hereto.

Section 3.7. Project Fund. The City shall establish, maintain and hold in trust a separate special trust fund to be designated the "2013 Project Fund" (herein referred to as the "Project Fund"). There shall be deposited in the Project Fund the amounts indicated in Section 3.1 of this Loan Agreement. The Project Fund shall be kept separate and apart from all other funds and accounts held by the City and shall be administered as provided herein.

Section 3.8. Application of Loan Proceeds. The Project Fund money shall be deposited in an account of the City so designated with \_\_\_\_\_ Bank, \_\_\_\_\_, California (Account # \_\_\_\_\_). Said account shall require that any withdrawals therefrom shall first require the signature of an Authorized Representative of a Requisition of the City, in a form which: (A) states with respect to each disbursement to be made (i) the name and address of the person, firm or corporation to whom payment will be made, (ii) the amount to be disbursed, (iii) that each obligation mentioned therein is a proper charge against the Project Fund and has not previously been disbursed by the City from amounts in the Project Fund, and (vi) that the amount of such disbursement is for a Project Cost; (B) specifies in reasonable detail the nature of the obligation; and (C) is accompanied by a bill or statement of account (if any) for each obligation.

Section 3.9. Reserved.

Section 3.10. Assignment by the Lender. The Lender's right, title and interest in and to this Loan Agreement and all proceeds, with prior written notice to the City, may be assigned and reassigned in whole to one or more assignees or subassignees by Lender, without the necessity of

obtaining the consent of City; provided, assignees or subassignees represent in writing to Lender that (i) such purchaser has sufficient knowledge and experience in financial and business matters to be able to evaluate the risks and merits of the investment, (ii) such purchaser understands that neither the Loan Agreement or the Loan will be registered under the Securities Act of 1933, (iii) such purchaser is either an “accredited investor” within the meaning of Regulation D under the Securities Act of 1933, or a qualified institutional buyer within the meaning of Rule 144A, and (iv) it is the present intention of such purchaser to acquire such interest (A) for investment for its own account or (B) for resale in a transaction exempt from registration under the Securities Act of 1933.

Section 3.11. Closing Conditions. The Lender has entered into this Loan Agreement in reliance upon the representations and warranties of the City contained in this Loan Agreement and to be contained in the documents and instruments to be delivered on the Closing Date and upon the performance by the City of the obligations of the City pursuant to this Loan Agreement at or prior to the Closing Date. Accordingly, the obligation of Lender to consummate the Loan and execute this Loan Agreement is subject to the fulfillment to the reasonable satisfaction of the Lender of the following conditions:

(a) The representations and warranties of the City contained in this Loan Agreement shall be true, complete and correct on the Closing Date.

(b) All representations, warranties and covenants made herein, and in certificates or other instruments delivered pursuant hereto or in connection herewith, shall be deemed to have been relied upon by the Lender notwithstanding any investigation heretofore or hereafter made by the Lender or on their behalf.

(c) On the Closing Date, the Resolution and this Loan Agreement shall be in full force and effect and shall not have been amended, modified or supplemented, except as may have been agreed to in writing by the Lender.

(d) On the Closing Date, the City will have adopted and there will be in full force and effect such resolutions as in the opinion of Bond Counsel and counsel to the Lender shall be necessary in connection with the transactions contemplated by this Loan Agreement, and all necessary action of the City relating to the issuance of the Loan will have been taken, will be in full force and effect and will not have been amended, modified or supplemented, except as may have been agreed to in writing by the Lender.

(e) At or prior to the Closing Date, the Lender will have received the following documents:

(i) the approving opinions, dated the Closing Date and addressed to the Lender, of Bond Counsel in form and content satisfactory to the Lender and its counsel, (I) addressing the tax-exempt status of the interest on the Loan, and (II) the Loan Agreement has been duly authorized, executed and delivered by the City and are legal, valid and binding obligations of the City, enforceable in accordance with its terms subject to customary exceptions for bankruptcy and judicial discretion..

(ii) a certificate or certificates, dated the date of the Closing and signed on behalf of the City by an Authorized Representative, to the effect that (I) the representations and warranties contained in this Loan Agreement are true and correct in all material respects on and as of the date of the Closing with the same effect as if made on the date of the Closing; (II) no litigation of any nature is then pending or, to his or her knowledge, threatened, seeking to restrain or enjoin the issuance and delivery of the Loan or the levy or collection of revenues to pay the principal thereof and interest thereon, questioning the proceedings and authority by which such pledge is made, affecting the validity of the Loan or contesting the existence or boundaries of the City or the title of the present officers to their respective offices; (III) no authority or proceedings for the issuance of the Loan has been repealed, revoked or rescinded and no petition or petitions to revoke or alter the authorization to issue the Loan has been filed with or received by the City; and (IV) the City has complied with all the agreements and covenants and satisfied all the conditions on its part to be performed or satisfied at or prior to, and to the extent possible before, the Closing Date.

(iii) a certified copy of the Resolution;

(iv) the items required by the Resolution as conditions for execution and delivery of the Loan;

(v) a non-arbitrage tax certificate of the City, in form and substance satisfactory to Bond Counsel;

(vi) the filing copy of the Information Return Form 8038-G; and

(vii) such additional legal opinions, certificates, instruments and other documents as the Lender or its counsel may reasonably request to evidence the truth and accuracy, as of the date of this Loan Agreement and as of the Closing Date, of the representations, warranties, agreements and covenants of the City contained herein and the due performance or satisfaction by the City at or prior to the Closing Date of all agreements then to be performed and all conditions then to be satisfied by the City.

## **ARTICLE IV**

### **SECURITY**

Section 4.1. Pledge of Net Revenues. The City hereby irrevocably pledges all of the Net Revenues to the punctual payment of the Loan Payments. This pledge shall constitute a first lien on the Net Revenues for the payment of the Loan in accordance with the terms hereof, which lien is on parity with the lien on Net Revenues that secures the payment of Parity Obligations. The Net Revenues will not be used for any other purpose while any of the Loan Payments are unpaid.

Section 4.2. Repayment of the Loan. The City hereby agrees to repay the Loan from Net Revenues in the aggregate principal amount of \$7,217,155 together with interest (calculated

at the rate of two and forty-eight hundredths percent (2.480%) on the basis of a 360-day year of twelve 30-day months) on the unpaid principal balance thereof, payable in semiannual Loan Payments in the respective amounts and on the respective Loan Payment Dates specified in Exhibit A hereto, and by this reference made a part hereof.

The Loan Payments shall be paid by the City to the Lender as follows:

Payments by wire:  
Pinnacle Public Finance, Inc.  
ABA#: \_\_\_\_\_  
For Credit to: \_\_\_\_\_  
DO NOT POST. CONTACT \_\_\_\_\_  
Reference: Loan # City of Lemoore

Section 4.3. Revenues; Application of Revenue Fund. The City hereby covenants and agrees that all Revenues, when and as received, will be received and held by the City in trust for the benefit of the Lender and owners of any Parity Obligations, and will be allocated and deposited by the City in the Revenue Fund (which the City hereby covenants and agrees to establish and maintain so long as the Loan remains outstanding). All Revenues shall be disbursed, allocated and applied solely to the uses and purposes set forth as follows:

(a) All Revenues in the Revenue Fund shall be set aside or used by the City or deposited by the City with the trustee or fiscal agent with respect to Parity Obligations, as the case may be, as follows and in the following order of priority:

(1) Maintenance and Operation Costs. In order to carry out and effectuate the pledge and lien contained herein, the City agrees and covenants to pay all Maintenance and Operation Costs of the Enterprise (including amounts reasonably required to be set aside in contingency reserves for the Enterprise, the payment of which is not then immediately required) from the Revenue Fund as they become due and payable. The City shall annually prepare a budget for Maintenance and Operation Costs.

(2) Debt Service. Debt Service shall be paid in accordance with the terms hereof and of any Parity Obligations, respectively, without preference or priority, and, in the event of any insufficiency of such moneys, ratably based on the respective principal amounts (including any accreted value) without any discrimination or preference.

(3) Reserve Accounts. Payments required to replenish any debt service reserve accounts established for Parity Obligations shall be made in accordance with the terms hereof and such Parity Obligations, without preference or priority, and in the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(4) Subordinate Debt Repayment. Payments relating to principal and interest on or with respect to Subordinate Debt in accordance with the terms of such Subordinate Debt, without preference or priority, and in the event of any insufficiency of such moneys, ratably based on the respective principal amounts (including any accreted value) without any discrimination or preference.

(5) Subordinate Debt Reserve Accounts. To make payments required with respect to Subordinate Debt to replenish reserve accounts established therefor in accordance with the terms of such Subordinate Debt, without preference or priority, and in the event of any insufficiency of such moneys, ratably based on the respective principal amounts (including any accreted value) without any discrimination or preference.

(6) General Expenditures. For any lawful purpose of the City, including, but not limited to, any costs of capital improvements to the Enterprise.

Section 4.4. Special Obligation of the City; Obligations Absolute. The City's obligation to pay the Loan Payments shall be a special obligation of the City limited solely to Net Revenues. Under no circumstances shall the City be required to advance moneys derived from any source of income other than Net Revenues and other sources specifically identified herein for the payment of the Loan Payments, nor shall any other funds or property of the City be liable for the payment of the Loan Payments. Notwithstanding the foregoing provisions of this Section, however, nothing herein is intended to prohibit the City voluntarily from making any payment hereunder from any source of available funds of the City.

The obligations of the City to pay the Loan Payments from Net Revenues, and to perform and observe the other agreements contained herein, shall be absolute and unconditional and shall not be subject to any defense or any right of setoff, counterclaim or recoupment arising out of any breach of the City, the Lender of any obligation to the City or otherwise with respect to the Enterprise, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the City by the Lender. Until such time as all of the Loan Payments shall have been fully paid or prepaid, the City (a) will not suspend or discontinue payment of any Loan Payments, (b) will perform and observe all other agreements contained in this Loan Agreement, and (c) will not terminate this Loan Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Enterprise, sale of the Enterprise, the taking by eminent domain of title to or temporary use of any component of the Enterprise, commercial frustration of purpose, any change in the tax or other laws of the United States of America or the State or any political subdivision of either thereof or any failure of the Lender to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Loan Agreement.

Section 4.5. Reduction upon Partial Prepayment. In the event the City prepays less than all of the remaining Principal Components of the Loan Payments pursuant to Sections 3.4 or 3.5 hereof, the amount of such prepayment shall be applied by the Lender to the outstanding Principal Components in inverse order of maturity.

Section 4.6. Rate on Overdue Loan Payments. In the event the City should fail to make any of the Loan Payments required in Section 4.2 hereof on or before the due date therefor, the Loan Payment in default shall continue as an obligation of the City until the amount in default shall have been fully paid and the City agrees to pay the same with interest thereon, to the extent permitted by law, from the date thereof at the Default Rate.

## ARTICLE V

### COVENANTS OF THE CITY

Section 5.1. Operation and Maintenance of the Enterprise. The City will maintain and preserve the Enterprise in good repair and working order at all times and will operate the Enterprise in an efficient and economical manner and will pay all Maintenance and Operation Costs of the Enterprise as they become due and payable.

Section 5.2. Against Sale or Other Disposition of Property. The City will not sell, lease, or otherwise dispose of the Enterprise or any part thereof essential to the proper operation of the Enterprise or to the maintenance of the Revenues. The City will not enter into any agreement or lease that impairs the operation of the Enterprise or any part thereof necessary to secure adequate Revenues for the payment of the Loan or that would otherwise impair the rights of the City with respect to the Revenues or the operation of the Enterprise. Any real or personal property that has become nonoperative or that is not needed for the efficient and proper operation of the Enterprise, or any material or equipment that has become worn out, may be sold at not less than the fair market value thereof. The City shall deposit the proceeds of such sale in the Revenue Fund.

Section 5.3. Rates, Fees, and Charges. (a) The City will, at all times while the Loan remains outstanding, fix, prescribe and collect rates, fees and charges in connection with the Enterprise so as to yield Revenues at least sufficient, after making reasonable allowances for contingencies and errors in the estimates, to pay the following amounts in the order set forth below:

- (1) All Maintenance and Operation Costs of the Enterprise;
- (2) The Debt Service payments and all other payments (including payments under reimbursement agreements) with respect to all Parity Obligations as they become due and payable;
- (3) All amounts, if any, required to restore the balance in any reserve accounts established for Parity Obligations in accordance with the terms of such Parity Obligations, without preference or priority; and
- (4) All payments required to meet any other obligations of the City that are charges, liens, encumbrances upon, or which are otherwise payable from the Revenues during such Fiscal Year.

(b) Furthermore, the City shall fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Enterprise during each Fiscal Year which are sufficient to yield estimated Net Revenues which are at least equal to one hundred ten percent (110%) of the aggregate amount of Debt Service on all Parity Obligations payable from Net Revenues coming due and payable during such Fiscal Year. The City may make adjustments, from time to time, in its rates, fees and charges as it deems necessary, but shall not reduce its

rates, fees and charges below those in effect unless the Net Revenues resulting from such reduced rates, fees and charges shall at all times be sufficient to meet the requirements set forth in this paragraph.

(c) If the City violates the covenants set forth in subsections (a) or (b) hereof, such violation shall not, in and of itself, be a default under this Loan Agreement and shall not give rise to a declaration of an Event of Default so long as (i) Net Revenues (calculated without taking into account any amounts transferred into the Revenue Fund from the Rate Stabilization Fund pursuant to subsection (d) below), are at least equal to the Maximum Annual Debt Service coming due and payable during such Fiscal Year, and (ii) within 120 days after the date such violation is discovered, the City either (y) transfers enough moneys from the Rate Stabilization Fund sufficient to yield estimated Net Revenues which are at least equal to one hundred ten percent (110%) of the aggregate amount of Debt Service on all Parity Obligations payable from Net Revenues coming due and payable during such Fiscal Year in compliance with subsection (b) hereof, or (z) hires an Independent Financial Consultant to review the revenues and expenses of the Enterprise, and abides by such consultant's recommendations to revise the schedule of rates, fees, expenses and charges, and to revise any Maintenance and Operation Costs insofar as practicable, and to take such other actions as are necessary so as to produce Net Revenues to cure such violation for future compliance; *provided, however*, that, if the City does not, or can not, transfer from the Rate Stabilization Fund the amount necessary to comply with subsection (b) hereof, or otherwise cure such violation within twelve (12) months after the date such violation is discovered, an Event of Default shall be deemed to have occurred under Section 6.1(a)(2) hereof.

(d) There is hereby created a separate fund to be known as the "Rate Stabilization Fund," to be held and maintained by the City. The Rate Stabilization Fund is not pledged to secure payment of the Loan Payments. Amounts in the Rate Stabilization Fund shall be applied solely for the uses and purposes set forth in this subsection (d). The City shall have the right to deposit into the Rate Stabilization Fund from time to time any amount of funds which are legally available therefor; provided that deposits for each Fiscal Year may be made until (but not after) one hundred twenty (120) days following the end of such Fiscal Year.

For the purpose of computing the amount of Revenues for any Fiscal Year for purposes of the preceding subsection (a), or the amount of Net Revenues for any Fiscal Year for purposes of the preceding subsection (b), the City shall be permitted to transfer amounts on deposit in the Rate Stabilization Fund to the Revenue Fund, such transfers to be made until (but not after) one hundred twenty (120) days after the end of such Fiscal Year. In addition, the City shall be permitted to withdraw amounts on deposit in the Rate Stabilization Fund for any other lawful purpose. The Rate Stabilization Fund is not pledged to secure payment of the Loan Payments.

Section 5.4. Collection of Rates and Charges. The City will have in effect at all times rules and regulations requiring each consumer or customer located on any premises connected with the Enterprise to pay the rates, fees and charges applicable to such premises and providing for the billing thereof and for a due date and a delinquency date for each bill. Except in connection with the receipt of federal or State funding, the City will not permit any part of the Enterprise or any facility thereof to be used or taken advantage of free of charge by any corporation, firm or person, or by any public agency (including the United States of America, the

State of California and any city, county, district, political subdivision, public corporation or agency of any thereof).

Section 5.5. Competitive Facilities. Except for any utility system existing as of the date hereof, the City will not, to the extent permitted by law, acquire, maintain or operate and will not, to the extent permitted by law and within the scope of its powers, permit any other public or private agency, authority, city, or political subdivision or any person whomsoever to acquire, maintain or operate within the City any utility system competitive with the Enterprise; provided, however, that the City may, with the written consent of the Lender, assign all or a portion of the Enterprise to another entity upon delivery to the Lender of an opinion of counsel experienced in the field of law relating to municipal bonds that such assignment will not adversely affect the tax-exempt status of the Loan, and provided such entity assumes the obligations of the City hereunder.

Section 5.6. Insurance. (a) The City will procure and maintain insurance on the Enterprise with commercial insurers or through participation in a joint powers insurance authority, in such amounts, with such deductibles and against such risks (including accident to or destruction of the Enterprise) as are usually insurable in accordance with industry standards with respect to similar enterprises.

In the event of any damage to or destruction of the Enterprise caused by the perils covered by such insurance, the proceeds of such insurance shall be applied to the repair, reconstruction or replacement of the damaged or destroyed portion of the Enterprise. The City shall cause such repair, reconstruction or replacement to begin promptly after such damage or destruction shall occur and to continue and to be properly completed as expeditiously as possible, and shall payout of the proceeds of such insurance all costs and expenses in connection with such repair, reconstruction or replacement so that the same shall be completed and the Enterprise shall be free and clear of all liens and claims. If the proceeds received by reason of any such loss shall exceed the costs of such repair, reconstruction or replacement, the excess shall be applied to prepay the Loan and any other Parity Obligations, on a pro rata basis, in the manner provided in Section 3.5 hereof and in the instruments authorizing such Parity Obligations.

Alternatively, if the proceeds of such insurance are sufficient to enable the City to retire all outstanding Parity Obligations and all other amounts due hereunder, the City may elect not to repair, reconstruct or replace the damaged or destroyed portion of the Enterprise, and thereupon such proceeds shall be applied to the prepayment of such Parity Obligations and to the payment of all other amounts due hereunder, and as otherwise required by the documents pursuant to which other Parity Obligations were issued.

(b) The City will procure and maintain commercial general liability insurance covering claims against the City for bodily injury or death, or damage to property, occasioned by reason of the ownership or operation of the Enterprise, such insurance to afford protection in such amounts and against such risks as are usually covered in connection with similar enterprises.

(c) The City will procure and maintain workers' compensation insurance against liability for compensation under the Workers' Compensation Insurance and Safety Act of California, or any act hereafter enacted as an amendment or supplement or in lieu thereof; such insurance to cover all persons employed in connection with the Enterprise.

(d) All policies of insurance required to be maintained herein shall provide that the Lender shall be given thirty (30) days' written notice of any intended cancellation thereof or reduction of coverage provided thereby.

(e) In lieu of obtaining insurance coverage as required by this Section, such coverage may, with the prior written consent of the Lender, be maintained by the City in the form of self-insurance. The City shall certify to the Lender that (i) the City has segregated amounts in a special insurance reserve meeting the requirements of this Section; (ii) an Insurance Consultant certifies annually, on or before January 1 of each year in which self-insurance is maintained, in writing to the Lender that the City's general insurance reserves are actuarially sound and are adequate to provide the necessary coverage; and (iii) such reserves are held in a separate trust fund by an 'independent trustee. Any statements of self-insurance shall be delivered to the Lender. The City shall pay or cause to be paid when due the premiums for all insurance policies required hereby.

The City shall cause the Lender to be named as an additional insured with respect to the City's liability insurance, and as a loss payee with respect to any property damage insurance. The City shall not allow any insurance to expire without thirty (30) days prior written notice to the Lender.

Section 5.7. Eminent Domain. If all or any part of the Enterprise shall be taken by eminent domain proceedings, the resulting Net Proceeds thereof shall be applied as follows:

(a) If (1) the City delivers to the Lender a Certificate of the City showing (i) the estimated loss of annual Net Revenues, if any, suffered or to be suffered by the City by reason of such eminent domain proceedings, (ii) a general description of the additions, betterments, extensions or improvements to the Enterprise proposed to be acquired by the City from any Net Proceeds, and (iii) an estimate of the additional annual Net Revenues to be derived from such additions, betterments, extensions or improvements, and (2) on the basis of such certificate, determines that the estimated additional annual Net Revenues will sufficiently offset the estimated loss of annual Net Revenues resulting from such eminent domain proceedings so that the ability of the City to meet its obligations hereunder will not be substantially impaired (which determination shall be final and conclusive); then the City shall promptly proceed with the acquisition of such additions, betterments, extensions or improvements substantially in accordance with such Certificate of the City and such Net Proceeds shall be applied for the payment of the costs of such acquisition, and any balance of such Net Proceeds not required by the City for such purpose shall be applied to prepay the Principal Components and any other Parity Obligations, on a pro rata basis, in the manner provided in Section 3.5 hereof and in the instruments authorizing such other Parity Obligations.

(b) If the foregoing conditions are not met, then such Net Proceeds shall be applied to prepay the Principal Components and any other Parity Obligations, on a pro rata basis, in the

manner provided in Section 3.5 hereof and in the instruments authorizing such other Parity Obligations.

Section 5.8. Additional Information. The City agrees to furnish to the Lender, promptly, from time to time, such information regarding the operations, financial condition and property of the City and the Enterprise as the Lender may reasonably request.

Section 5.9. Compliance with Law and Contracts. The City will faithfully comply with, keep, observe, and perform all valid and lawful obligations or regulations now or hereafter imposed on its operation of the Enterprise by contract, or prescribed by any law of the United States of America or of the State of California, or by any officer, board, or commission having jurisdiction or control.

Section 5.10. Punctual Payment. The City will punctually pay the principal and interest to become due in respect of the Loan, in strict conformity with the terms hereof, and will faithfully observe and perform all the agreements, conditions, covenants and terms contained herein required to be observed and performed by it, and will not rescind this Loan Agreement for any cause.

Section 5.11. Reserved.

Section 5.12. Protection of Security and Rights of the Lender. The City will preserve and protect the security of the Loan and the rights of the Lender and will warrant and defend the Lender's rights against all claims and demands of all persons. From and after the Closing Date, the Loan shall be incontestable by the City.

Section 5.13. Parity Obligations.

(a) So long as the Loan is outstanding, the City shall not issue or incur any obligations payable from Revenues or Net Revenues senior or superior to the payment of Debt Service on the Loan. The City may, with the prior consent of the Lender (which will not unreasonably be withheld), at any time issue Parity Obligations payable from Net Revenues on a parity with Debt Service on the Loan to provide financing or refinancing for the Enterprise in such principal amount as shall be determined by the City. The City may issue or incur any such Parity Obligations subject to the following specific conditions, which are hereby made conditions precedent to the issuance and delivery of such Parity Obligations:

(1) No Event of Default shall have occurred and be continuing;

(2) The Net Revenues (calculated without taking into account any amounts transferred into the Revenue Fund from the Rate Stabilization Fund pursuant to Section 5.3(d) hereof), calculated in accordance with Generally Accepted Accounting Principles, either (i) as shown by the books of the City for the latest Fiscal Year, as verified by a certificate of an Authorized Representative of the City, or (ii) as shown by the books of the City for any more recent twelve (12) month period selected by the City, as verified by a certificate or opinion of an Independent Certified Public Accountant employed by the City, plus in either case (at the option of the City) the Additional Revenues, shall be at

least equal to one hundred ten percent (110%) of the amount of Maximum Annual Debt Service on all outstanding Parity Obligations and the Parity Obligations to be issued; and

(3) Except with respect to the Loan, and at the City's sole discretion, there shall be established from the proceeds of such Parity Obligations a reserve fund for the security of such Parity Obligations, in an amount equal to the lesser of (i) the maximum amount of debt service required to be paid by the City with respect to such Parity Obligations during any Fiscal Year and (ii) the maximum amount then permitted under the Code, in either event as certified in writing by the City.

The provisions of subsection (2) of this Section shall not apply to any Parity Obligations if, and to the extent that (i) all of the proceeds of such Parity Obligations (other than proceeds applied to pay costs of issuing such Parity Obligations and to make the reserve fund deposit required pursuant to subsection (3) of this Section) shall be deposited in an irrevocable escrow held in cash or invested in Federal Securities for the purpose of paying the principal of and interest and premium (if any) on such outstanding Parity Obligations, and (ii) at the time of the incurring of such Parity Obligations, the City certifies in writing that maximum annual debt service on such Parity Obligations will not exceed Maximum Annual Debt Service on the outstanding Parity Obligations being refunded, and (iii) the final maturity of such Parity Obligations is not later than the final maturity of the Parity Obligations being refunded.

(b) In order to maintain the parity relationship of debt service payments on all Parity Obligations permitted hereunder, the City covenants that all payments in the nature of principal and interest or reserve account replenishment with respect to any Parity Obligations, will be structured to occur semi-annually on the Loan Payment Dates and in each year as such payments are due with respect to the debt service payments on the Loan, and reserve account replenishment with respect to any Parity Obligations will be structured to occur monthly, and to otherwise structure the terms of such Parity Obligations to ensure that they are in all respects payable on a parity with the debt service payments on Parity Obligations and not prior thereto.

(c) The City may at any time execute contracts or issue bonds or other indebtedness payable from Net Revenues or the Revenue Fund payable on a subordinated basis to the payment of the Debt Service payments on Parity Obligations.

Section 5.14. Against Encumbrances. The City hereby covenants and agrees that it shall not incur any obligations that are secured by a pledge and lien on the Net Revenues that is senior to the pledge and lien on the Net Revenues contained herein. The City will not make any pledge of or place any lien on the Net Revenues except as provided herein. The City may pledge Net Revenues to secure Parity Obligations issued in accordance with Section 5.13 hereof. The City may at any time, or from time to time, issue evidences of indebtedness for any lawful purpose that are payable from and secured by a pledge of and lien on Net Revenues that is subordinate in all respects to the pledge of and lien on the Net Revenues provided herein.

Section 5.15. Further Assurances. The City will adopt, make, execute and deliver any and all further resolutions, instruments, and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof and for the better assuring and confirming unto the Lender of the rights and benefits provided to it herein.

Section 5.16. Financial Reports. Promptly upon receipt by the City and in no event later than two hundred seventy (270) days after the close of each Fiscal Year (unless otherwise agreed in writing by the Lender), the City will furnish, or cause to be furnished, to the Lender an audit report of an Independent Certified Public Accountant with respect to such Fiscal Year, covering the operations of the Enterprise for said Fiscal Year. Such audit report shall include statements of the status of each account pertaining to the Enterprise, showing the amount and source of all deposits therein, the amount and purpose of the withdrawals therefrom and the balance therein at the beginning and end of said Fiscal Year. Each such audit, in addition to whatever matters may be considered proper by the Independent Certified Public Accountant to be included therein, shall include a statement as to whether or not the Net Revenues for such Fiscal Year were equal to at least 1.20 times the Debt Service for such Fiscal Year, calculated as provided in Section 5.3 hereof. In addition, the City shall deliver to the Lender, not later than August 1 of each year, commencing August 1, 2013, a copy of the City's adopted budget for the then current Fiscal Year.

Section 5.17. Opinion of City Attorney. The City will cause to be delivered to the Lender an opinion issued by the City Attorney on the date of delivery of the Loan, to the effect that (i) the City is a municipal corporation and charter city duly organized and existing under the laws of the State of California; (ii) this Loan Agreement was duly approved at a meeting of the Council that was called and held pursuant to law and with all public notice required by law and at which a quorum was present and acting throughout; (iii) there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or, to the best knowledge of such counsel after reasonable investigation, threatened against or affecting the City, to restrain or enjoin the execution and delivery of this Loan Agreement, or in any way contesting or affecting the validity of this Loan Agreement, (iv) the adoption of this Loan Agreement and compliance by the City with the provisions hereof, under the circumstances contemplated hereby, do not and will not constitute on the part of the City a breach or default under any agreement or other instrument to which the City is a party or by which it is bound (that are known to the City Attorney) or any existing law, regulation, court order or consent decree to which the City is subject.

Section 5.18. Observance of Laws and Regulations. The City will well and truly keep, observe and perform or cause to be kept, observed and performed all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States, or of the State, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired and enjoyed by the City, including the City's right to exist and carry on business as a California city, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

Section 5.19. Private Activity Bond Limitation. The City shall assure that monies deposited pursuant to this Loan Agreement are not so used as to cause this Loan Agreement to satisfy the private business tests of section 141(b) of the Code or the private loan financing test of section 141(d) of the Code.

Section 5.20. Federal Guarantee Prohibition. The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause this Loan Agreement

or the Interest Components of the Loan Payments to be “federally guaranteed” within the meaning of section 149(b) of the Code.

Section 5.21. Maintenance of Tax Exemption. The City shall take all actions necessary to assure the exclusion of the Interest Components of the Loan Payments from the gross income of the Lender to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the Closing Date. If, for any reason, the Interest Components of the Loan Payments becomes includable in the gross income of the Lender for federal income tax purposes under the Code, the City, at the option of the Lender, shall pay to the Lender within thirty days of such determination, the amount which, with respect to Loan Payments previously paid and taking into account all penalties, fines, interest and additions to tax (including all federal, state and local taxes imposed on the interest component of the Loan Payments due through the date of such determination) that are imposed on the Lender as a result of the loss of the exclusion, will restore the Lender to the same after-tax yield on the transaction evidenced by this Loan Agreement (assuming tax at the actual marginal corporate rate) that it would have realized had the tax exemption not been lost. Furthermore, the City agrees that upon the occurrence of such an event, it shall pay additional amounts to the Lender on each succeeding Loan Payment Date such amount as will maintain such after-tax yield to the Lender. Notwithstanding any such recalculation of the Loan Payments, the City shall at all times have the option to prepay all or part of the Loan Payments in accordance with Section 3.4 hereof.

Section 5.22. Rebate Requirement. The City shall take any and all actions necessary to assure compliance with Section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government.

Section 5.23. No Arbitrage. The City shall not take any action with respect to the proceeds of this Loan Agreement which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date this Loan Agreement was entered into would have caused this Loan Agreement to be an “arbitrage bond” within the meaning of Section 148 of the Code.

Section 5.24. Budget. The City hereby covenants to take such action as may be necessary to include all Loan Payments and all other amounts due hereunder in its annual budget and to make the necessary annual appropriations for all such Loan Payments and all other amount due hereunder.

Section 5.25. Notices. The City shall provide to the Lender:

(a) Immediate notice by telephone, promptly confirmed in writing, of any event, action or failure to take any action which constitutes an Event of Default under this Loan Agreement, together with a detailed statement by an Authorized Representative of the steps being taken by the City to cure the effect of such Event of Default.

(b) Prompt written notice (i) of any action, suit or proceeding or any investigation, inquiry or similar proceeding by or before any court or other governmental authority, domestic or foreign, against the City or the Enterprise or the Revenues which involve

claims equal to or in excess of \$500,000 or that seeks injunctive relief, or (ii) of any loss or destruction of or damage to any portion of the Enterprise in excess of \$500,000.

(c) Prompt written notice of any Material Litigation, or any investigation, inquiry or similar proceeding by any Governmental Authority with respect to any matter that relates to or could impact any Revenues.

(d) Promptly upon notice thereof, any termination or cancellation of any insurance policy which the City is required to maintain, or any uninsured or partially uninsured loss through liability or property damage, or through fire, theft or any other cause affecting the City property in excess of an aggregate of \$500,000.

(e) With reasonable promptness, such other information respecting the City, Enterprise, and the operations, affairs and financial condition of the City as the Lender may from time to time reasonably request.

## ARTICLE VI

### EVENTS OF DEFAULT AND REMEDIES

#### Section 6.1. Events of Default and Remedies.

(a) Events of Default. The following shall be Events of Default hereunder:

(1) Failure by the City to pay any Principal Component or Interest Component on the Loan when due and payable.

(2) Failure by the City to observe and perform any covenant, condition or agreement on its part contained herein pertaining to the Enterprise, other than in clause (1) of this subsection, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Lender; *provided, however*, if in the reasonable opinion of the City the failure stated in the notice can be corrected, but not within such thirty (30) day period, the Lender shall not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the City within such thirty (30) day period and diligently pursued until the default is corrected.

(3) Default by the City under any Parity Obligation (or Subordinate Debt which requires or permits the immediate acceleration thereof).

(4) Institution of any proceeding under the United States Bankruptcy Code or any federal or state bankruptcy, insolvency, or similar law or any law providing for the appointment of a receiver, liquidator, trustee, or similar official of the City or of all or substantially all of its assets, by or with the consent of the City, or institution of any such proceeding without its consent that is not permanently stayed or dismissed within sixty days, or agreement by the City with the City's creditors to effect a composition or extension of time to pay the City's debts, or request by the City for a reorganization or to

effect a plan of reorganization, or for a readjustment of the City's debts, or a general or any assignment by the City for the benefit of the City's creditors.

(5) Any statement, representation or warranty made by the City in or pursuant to this Loan Agreement or its execution, delivery or performance proves to have been false, incorrect, misleading, or breached in any material respect on the date made, and is continuing for a period of thirty (30) days after written notice specifying such misrepresentation or breach and requesting that it be remedied has been given to the City by the Lender; provided, however, that the Lender and the City may agree that action by the City to cure such failure may be extended beyond such thirty-day period.

(6) This Loan Agreement or any material provision of this Loan Agreement shall at any time for any reason cease to be the legal, valid and binding obligation of the City or shall cease to be in full force and effect, or shall be declared to be unenforceable, invalid or void, or the validity or enforceability thereof shall be contested by the City, or the City shall renounce the same or deny that it has any further liability hereunder.

(7) Dissolution, termination of existence or insolvency of the City.

(8) Any court of competent jurisdiction with jurisdiction to rule on the validity of any provision of this Loan Agreement shall find or rule that this Loan Agreement is not valid or not binding on the City.

(b) Remedies on Default. Whenever any Event of Default shall have happened and be continuing, the Lender shall have the right, at its option upon notice to the City, to declare the unpaid aggregate Principal Components of the Loan, and the interest accrued thereon, to be immediately due and payable, whereupon the same shall immediately become due and payable.

The Lender shall also have the right, at its option upon notice to the City, to (i) apply to and obtain from any court of competent jurisdiction such decree or order as may be necessary to require officials of the City to charge and collect rates for services provided by the City and the Enterprise sufficient to meet all requirements of this Loan Agreement, and (ii) take whatever action at law or in equity as may appear necessary or desirable to collect the Loan Payments then due or thereafter to become due during the Term of this Loan Agreement, or enforce performance and observance of any obligation, agreement or covenant of the City under this Loan Agreement, subject to the following paragraph.

Notwithstanding any provision of this Loan Agreement, the City's liability to pay the Loan Payments and other amounts hereunder shall be limited solely to Net Revenues as provided in Article IV hereof. In the event that Net Revenues shall be insufficient at any time to pay a Principal Component and/or Interest Loan Component in full, the City shall not be liable to pay or prepay such delinquent Loan Payment other than from Net Revenues.

Section 6.2. Application of Funds Upon Acceleration. Upon the date of the declaration of acceleration as provided in Section 6.1, all Net Revenues thereafter received by the City shall be applied in the following order:

First, to the payment, without preference or priority, and in the event of any insufficiency of such Net Revenues ratably without any discrimination or preference, of the fees, costs and expenses of the Lender if any, in carrying out the provisions of this article, including reasonable compensation to their respective accountants and counsel; and

Second, to the payment of the entire unpaid aggregate Principal Components of the Loan and the unpaid principal amount of any other obligations secured by the Net Revenues and the accrued interest thereon, with interest on the overdue payments at the rate or rates of interest applicable to the Loan and such other obligations if paid in accordance with their respective terms.

Section 6.3. Other Remedies of the Lender. The Lender shall have the right:

(a) by mandamus or other action or proceeding or suit at law or in equity to enforce its rights against the City or any director, officer or employee thereof, and to compel the City or any such director, officer or employee to perform and carry out its or his duties under the agreements and covenants required to be performed by it or him contained herein;

(b) by suit in equity to enjoin any acts or things that are unlawful or violate the rights of the Lender; or

(c) by suit in equity upon the happening of an Event of Default to require the City and its Council members, officers and employees to account as the trustee of an express trust.

Section 6.4. Non-Waiver. Nothing in this article or in any other provision hereof, or in the Loan, shall affect or impair the obligation of the City, which is absolute and unconditional, to pay the principal of and interest on the Loan to the Lender when due, as herein provided, out of the Net Revenues herein pledged for such payment, or shall affect or impair the right of the Lender, which is also absolute and unconditional, to institute suit to enforce such payment by virtue of the contract embodied in this Loan Agreement.

A waiver of any default or breach of duty or contract by the Lender shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Lender to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Lender by law or by this article may be enforced and exercised from time to time and as often as shall be deemed expedient by the Lender.

If any action, proceeding or suit to enforce any right or exercise any remedy is abandoned or determined adversely to the Lender, the City and the Lender shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

Section 6.5. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Lender is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

Section 6.6. Prosecution and Defense of Suits. The City shall promptly, upon request of the Lender or its assignee, from time to time take or cause to be taken such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to the Enterprise whether now existing or hereafter arising and shall prosecute all such suits, actions and other proceedings as may be appropriate for such purpose.

## ARTICLE VII

### NOTICES; JUDICIAL REFERENCE

Section 7.1. Notices. All notices, certificates or other communications hereunder shall be in writing and shall be deemed to have been properly given on the earlier of (i) when delivered in person, (ii) the third Business Day following deposit in the United States Mail, with adequate postage, and sent by registered or certified mail, with return receipt requested to the appropriate party at the address set forth below, or (iii) the first Business Day following deposit with Federal Express, Express Mail or other overnight delivery service for next day delivery, addressed to the appropriate party at the address set forth below.

If to the City:           City of Lemoore  
                                  119 Fox Street  
                                  Lemoore, CA 93245  
                                  Attention: \_\_\_\_\_  
                                  Fax: (559) \_\_\_\_\_

If to the Lender:       Pinnacle Public Finance, Inc.  
                                  \_\_\_\_\_  
                                  \_\_\_\_\_, \_\_\_\_\_  
                                  Attention: \_\_\_\_\_  
                                  Fax: (\_\_\_\_) \_\_\_\_\_

Section 7.2. Judicial Reference.

(a) *Judicial Reference.* The Lender and the City hereby agree: (i) each proceeding or hearing based upon or arising out of, directly or indirectly, this Loan Agreement or any document related thereto, any dealings between the City and the Lender related to the subject matter of this Loan Agreement or any related transactions, and/or the relationship that is being established between the City and the Lender (hereinafter, a "Claim") shall be determined by a consensual general judicial reference (the "Reference") pursuant to the provisions of Section 638 et seq. of the California Code of Civil Procedure, as such statutes may be amended or modified from time to time; (ii) upon a written request, or upon an appropriate motion by either the Lender or the City, as applicable, any pending action relating to any Claim and every Claim shall be heard by a single Referee (as defined below) who shall then try all issues (including any and all

questions of law and questions of fact relating thereto), and issue findings of fact and conclusions of law and report a statement of decision. The Referee's statement of decision will constitute the conclusive determination of the Claim. The Lender and the City agree that the Referee shall have the power to issue all legal and equitable relief appropriate under the circumstances before the Referee; (iii) the Lender and the City shall promptly and diligently cooperate with one another, as applicable, and the Referee, and shall perform such acts as may be necessary to obtain prompt and expeditious resolution of all Claims in accordance with the terms of this Section 7.2; (iv) either the Lender or the City, as applicable, may file the Referee's findings, conclusions and statement with the clerk or judge of any appropriate court, file a motion to confirm the Referee's report and have judgment entered thereon if the report is deemed incomplete by such court, the Referee may be required to complete the report and resubmit it; (v) the Lender and the City, as applicable, will each have such rights to assert such objections as are set forth in Section 638 et seq. of the California Code of Civil Procedure; and (vi) all proceedings shall be closed to the public and confidential, and all records relating to the Reference shall be permanently sealed when the order thereon becomes final.

(b) *Selection of Referee; Powers.* The parties to the Reference proceeding shall select a single neutral referee (the "Referee"), who shall be a retired judge or justice of the courts of the State of California, or a federal court judge, in each case, with at least ten (10) years of judicial experience in civil matters. The Referee shall be appointed in accordance with Section 638 of the California Code of Civil Procedure (or pursuant to comparable provisions of federal law if the dispute falls within the exclusive jurisdiction of the federal courts). If within ten (10) days after the request or motion for the Reference, the parties to the Reference proceeding cannot agree upon a Referee, then any party to such proceeding may request or move that the Referee be appointed by the Presiding Judge of the Kings County Superior Court, or of the U.S. District Court for the Eastern District of California. The Referee shall determine all issues relating to the applicability, interpretation, legality and enforceability of this Section 7.2.

(c) *Provisional Remedies and Self Help.* No provision of this Section 7.2 shall limit the right of either the Lender or the City, as the case may be, to (i) exercise such self-help remedies as might otherwise be available under applicable law, or (ii) ) obtain or oppose provisional or ancillary remedies, including without limitation injunctive relief, writs of possession, the appointment of a receiver, and/or additional or supplementary remedies from a court of competent jurisdiction before, after, or during the pendency of any Reference. The exercise of, or opposition to, any such remedy does not waive the right of the Lender or the City to the Reference pursuant to this Section 7.2(c).

(d) *Costs and Fees.* Promptly following the selection of the Referee, the parties to such Reference proceeding shall each advance equal portions of the estimated fees and costs of the Referee. In the statement of decision issued by the Referee, the Referee shall award costs, including reasonable attorneys' fees, to the prevailing party, if any, and may order the Referee's fees to be paid or shared by the parties to such Reference proceeding in such manner as the Referee deems just.

## ARTICLE VIII

### AMENDMENTS; DISCHARGE; GENERAL AUTHORIZATION; EFFECTIVE DATE

Section 8.1. Amendments Permitted. (a) This Loan Agreement and the rights and obligations of the City and of the Lender may be modified or amended at any time by a written supplemental agreement entered into by the City and the Lender.

(b) From and after the time any supplemental agreement becomes effective pursuant to this Article, this Loan Agreement shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties, and obligations under this Loan Agreement and the Lender shall thereafter be determined, exercised, and enforced hereunder subject in all respects to such modification and amendments, and all the terms and conditions of any such supplemental agreement shall be deemed to be part of the terms and conditions of this Loan Agreement for any and all purposes.

Section 8.2. Discharge of Loan Agreement. (a) If the City shall pay or cause to be paid or there shall otherwise be paid to the Lender the principal of and the interest and the prepayment premium, if any, on this Loan Agreement at the times and in the manner stipulated herein, then all agreements, covenants and other obligations of the City to the Lender hereunder shall thereupon cease, terminate and become void and be discharged and satisfied.

(b) This Loan Agreement shall be deemed to have been paid within the meaning and with the effect expressed in subsection (a) of this section if (1) in case this Loan Agreement is to be prepaid on any date prior to its final principal payment date, the City shall have mailed a notice of prepayment to the Lender, (2) there shall have been deposited with the Lender or an escrow agent either money in an amount that shall be sufficient or direct obligations of the United States of America that are not subject to redemption except by the holder thereof prior to maturity (including any such securities issued or held in book-entry form on the books of the Department of the Treasury of the United States of America), the interest on and principal of which when paid will provide money that, together with the money, if any, deposited with the Lender or such escrow agent at the same time, shall be sufficient to pay when due the interest to become due on this Loan Agreement on and prior to the final principal payment date or prepayment date thereof, as the case may be, and the principal of and prepayment premiums, if any, on this Loan Agreement on and prior to the final principal payment date or the prepayment date thereof, as the case may be, and (3) if this Loan Agreement is not subject to prepayment within the next succeeding sixty (60) days, the City shall have mailed a notice to the Lender that the deposit required by clause (2) above has been made with the Lender or such escrow agent and that this Loan Agreement is deemed to have been paid in accordance with this section and stating the principal payment dates or prepayment date, as the case may be, upon which money is to be available for the payment of the principal of and prepayment premiums, if any, on this Loan Agreement.

Section 8.3. General Authorization. The Authorized Representatives of the City, and each of them individually, are hereby authorized and directed, for and in the name of and on behalf of the City, to execute and deliver any and all documents (including specifically the Escrow Agreement), to do any and all things and take any and all actions that may be necessary

or advisable, in their discretion, in order to consummate the financing and to effect the purposes of this Loan Agreement. All actions heretofore taken by officers, employees, and agents of the City that are in conformity with the purposes and intent of this Loan Agreement are hereby approved, confirmed, and ratified.

Section 8.4. Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the Lender and the City and their respective successors and assigns.

Section 8.5. Severability. In the event any provision of this Loan Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 8.6. Further Assurances and Corrective Instruments. The Lender and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Loan Agreement.

Section 8.7. Applicable Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State of California.

Section 8.8. Captions. The captions or headings in this Loan Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Loan Agreement.

Section 8.9. Agreement to Pay Attorneys' Fees and Expenses. The City will pay the Lender its reasonable attorney fees incurred subsequent to an Event of Default.

Section 8.10. Execution in Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

\* \* \* \* \*

[Signature page to follow]

IN WITNESS WHEREOF, the Lender has caused this Loan Agreement to be executed in its corporate name by its duly authorized officer; and the City has caused this Loan Agreement to be executed in its name by its duly authorized officer, as of the date first above written.

PINNACLE PUBLIC FINANCE, INC.,

By \_\_\_\_\_  
Authorized Officer

CITY OF LEMOORE

By \_\_\_\_\_

**EXHIBIT A  
LOAN PAYMENT SCHEDULE**

**\$7,217,155  
CITY OF LEMOORE  
SERIES 2013 WATER REVENUE LOAN**

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
10/1/2013			59,661.81	59,661.81	
1/1/2014			44,746.36	44,746.36	
4/1/2014			44,746.36	44,746.36	149,154.53
7/1/2014	99,664.93	2.480%	44,746.36	144,411.29	
10/1/2014	100,282.85	2.480%	44,128.44	144,411.29	
1/1/2015	100,904.60	2.480%	43,506.68	144,411.28	
4/1/2015	101,530.21	2.480%	42,881.07	144,411.28	577,645.14
7/1/2015	102,159.70	2.480%	42,251.59	144,411.29	
10/1/2015	102,793.09	2.480%	41,618.20	144,411.29	
1/1/2016	103,430.41	2.480%	40,980.88	144,411.29	
4/1/2016	104,071.68	2.480%	40,339.61	144,411.29	577,645.16
7/1/2016	104,716.92	2.480%	39,694.37	144,411.29	
10/1/2016	105,366.16	2.480%	39,045.12	144,411.28	
1/1/2017	106,019.43	2.480%	38,391.85	144,411.28	
4/1/2017	106,676.76	2.480%	37,734.53	144,411.29	577,645.14
7/1/2017	107,338.15	2.480%	37,073.13	144,411.28	
10/1/2017	108,003.65	2.480%	36,407.64	144,411.29	
1/1/2018	108,673.27	2.480%	35,738.02	144,411.29	
4/1/2018	109,347.04	2.480%	35,064.24	144,411.28	577,645.14
7/1/2018	110,025.00	2.480%	34,386.29	144,411.29	
10/1/2018	110,707.15	2.480%	33,704.13	144,411.28	
1/1/2019	111,393.54	2.480%	33,017.75	144,411.29	
4/1/2019	112,084.18	2.480%	32,327.11	144,411.29	577,645.15
7/1/2019	112,779.10	2.480%	31,632.19	144,411.29	
10/1/2019	113,478.33	2.480%	30,932.96	144,411.29	
1/1/2020	114,181.89	2.480%	30,229.39	144,411.28	
4/1/2020	114,889.82	2.480%	29,521.46	144,411.28	577,645.14
7/1/2020	115,602.14	2.480%	28,809.15	144,411.29	
10/1/2020	116,318.87	2.480%	28,092.41	144,411.28	
1/1/2021	117,040.05	2.480%	27,371.24	144,411.29	
4/1/2021	117,765.70	2.480%	26,645.59	144,411.29	577,645.15
7/1/2021	118,495.84	2.480%	25,915.44	144,411.28	
10/1/2021	119,230.52	2.480%	25,180.77	144,411.29	
1/1/2022	119,969.75	2.480%	24,441.54	144,411.29	
4/1/2022	120,713.56	2.480%	23,697.73	144,411.29	577,645.15
7/1/2022	121,461.98	2.480%	22,949.30	144,411.28	
10/1/2022	122,215.05	2.480%	22,196.24	144,411.29	
1/1/2023	122,972.78	2.480%	21,438.50	144,411.28	

4/1/2023	123,735.21	2.480%	20,676.07	144,411.28	577,645.13
7/1/2023	124,502.37	2.480%	19,908.91	144,411.28	
10/1/2023	125,274.29	2.480%	19,137.00	144,411.29	
1/1/2024	126,050.99	2.480%	18,360.30	144,411.29	
4/1/2024	126,832.50	2.480%	17,578.78	144,411.28	577,645.14
7/1/2024	127,618.86	2.480%	16,792.42	144,411.28	
10/1/2024	128,410.10	2.480%	16,001.18	144,411.28	
1/1/2025	129,206.24	2.480%	15,205.04	144,411.28	
4/1/2025	130,007.32	2.480%	14,403.96	144,411.28	577,645.12
7/1/2025	130,813.37	2.480%	13,597.92	144,411.29	
10/1/2025	131,624.41	2.480%	12,786.87	144,411.28	
1/1/2026	132,440.48	2.480%	11,970.80	144,411.28	
4/1/2026	133,261.61	2.480%	11,149.67	144,411.28	577,645.13
7/1/2026	134,087.83	2.480%	10,323.45	144,411.28	
10/1/2026	134,919.18	2.480%	9,492.11	144,411.29	
1/1/2027	135,755.68	2.480%	8,655.61	144,411.29	
4/1/2027	136,597.36	2.480%	7,813.92	144,411.28	577,645.14
7/1/2027	137,444.27	2.480%	6,967.02	144,411.29	
10/1/2027	138,296.42	2.480%	6,114.86	144,411.28	
1/1/2028	139,153.86	2.480%	5,257.43	144,411.29	
4/1/2028	140,016.61	2.480%	4,394.67	144,411.28	577,645.14
7/1/2028	140,884.72	2.480%	3,526.57	144,411.29	
10/1/2028	141,758.20	2.480%	2,653.08	144,411.28	
1/1/2029	142,637.10	2.480%	1,774.18	144,411.28	
4/1/2029	143,521.45	2.480%	889.83	144,411.28	577,645.13
	7,217,154.53		1,596,677.10	8,813,831.63	8,813,831.63

**EXHIBIT B**

**DESCRIPTION OF PROJECT**

Installation of solar photovoltaic arrays as described in the contract between the City of Lemoore and Chevron Energy Solutions