

CREDIT AGREEMENT

by and between

MONTEREY ONE WATER  
(formerly known as Monterey Regional Water Pollution Control Agency)

and

BANK OF AMERICA, N.A.

Dated April 8, 2020

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## CREDIT AGREEMENT

This CREDIT AGREEMENT, dated April 8, 2020 (as amended, modified, supplemented or restated, this “*Agreement*”), is entered into by and between the MONTEREY ONE WATER, a joint powers agency duly organized and existing under and pursuant to the laws of the State of California (the “*Agency*”) and BANK OF AMERICA, N.A. (the “*Bank*”).

### RECITALS

A. The Agency wishes to obtain a revolving line of credit (the “*Line of Credit*”) from the Bank hereunder and the Bank is willing, upon the terms and subject to the conditions set forth below, to provide the Line of Credit to the Agency to pay Project Costs (as defined herein) reimbursable from certain SRF Loans, the Proposition 1 Storm Water Grant, the Proposition 1 Water Recycling Funding Program Construction Grant and Net Revenues (as defined herein), and, as set forth herein.

B. All obligations of the Agency to repay Revolving Loans and to pay all other amounts payable to the Bank arising under or pursuant to this Agreement or the promissory note to be issued by the Agency to the Bank hereunder (all such obligations are hereinafter collectively referred to as the “*Payment Obligations*”) are created under and will be evidenced by this Agreement and such promissory note and will be secured by a pledge of and subordinate lien on the Net Revenues and a pledge of and senior lien on the other Collateral (as defined herein) all in accordance with the terms and conditions hereof.

NOW, THEREFORE, in consideration of the foregoing Recitals and other consideration, the receipt and sufficiency of which is hereby acknowledged, and to induce the Bank to extend to the Agency the Line of Credit, the Agency and the Bank hereby agree as follows:

### ARTICLE I

#### DEFINITIONS

*Section 1.1. Definitions.* The following terms shall have the following meanings as used herein:

“*Act*” means the Joint Exercise of Powers Act (being Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, as amended) and all laws amendatory thereof or supplemental thereto.

“*Additional Agreement*” has the meaning set forth in Section 7.17 hereof.

“*Additional Revenues*” means, with respect to the issuance or incurrence of any Net Revenue Debt secured by a pledge of and lien upon any portion of the Net Revenues on a basis

subordinate to or on a parity with the lien on the Net Revenues securing the Payment Obligations, any or all of the following amounts:

(a) An allowance for Net Revenues from any additions or improvements to or extensions of the Wastewater System to be made with the proceeds of such Net Revenue Debt and also for Net Revenues from any such additions, improvements or extensions which have been made from moneys from any source but in any case which, during all or any part of the latest Fiscal Year or for any more recent consecutive twelve (12) month period selected by the Agency, were not in service, all in an amount equal to 75% of the estimated additional average annual Net Revenues to be derived from such additions, improvements and extensions for the first thirty-six (36) month period in which each addition, improvement or extension is respectively to be in operation, all as shown by the certificate or opinion of a qualified independent engineer employed by the Agency.

(b) An allowance for Net Revenues arising from any increase in the charges made for service from the Wastewater System which has become effective prior to the incurring of such Net Revenue Debt but which, during all or any part of the latest Fiscal Year or for any more recent consecutive twelve (12) month period selected by the Agency, was not in effect, in an amount equal to the total amount by which the Net Revenues would have been increased if such increase in charges had been in effect during the whole of such Fiscal Year or twelve (12) month period, all as shown by the certificate or opinion of an Independent Accountant or Financial Consultant employed by the Agency.

*“Additional Rights”* has the meaning set forth in Section 7.17 hereof.

*“Affiliate”* means, with respect to any Person, any Person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person. A Person shall be deemed to control another Person for the purposes of this definition if such first Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the second Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise.

*“Agency”* means the Monterey One Water (formerly known as the Monterey Regional Water Pollution Control Agency) and its successors and assigns permitted hereunder.

*“Applicable Factor”* means 80%.

*“Authorized Representative”* means the Chief Financial Officer or General Manager of the Agency or any other person designated by the Board of Directors as an Authorized Representative under the terms of a resolution adopted by the Board of Directors; *provided*, that a copy of such resolution shall have been provided to the Bank.

*“Available Commitment”* means, on the Effective Date, an initial amount equal to the Commitment Amount, and thereafter as adjusted from time to time as follows: (a) downward in an amount equal to any Revolving Loan made hereunder; (b) upward in an amount equal to the principal amount of any Revolving Loan that is prepaid; (c) downward in an amount equal to any

reduction of the Available Commitment effected pursuant to Section 2.6 or Section 9.2 hereof; and (d) downward to zero upon termination of the Commitment in accordance with the terms hereof.

“*Bank*” means Bank of America, N.A., and its successors and assigns.

“*Bank’s Office*” means, the office or offices of the Bank described as such in Section 10.3, or such other office or offices as the Bank may from time to time notify the Agency.

“*Board of Directors*” means the Board of Directors of the Agency which is the governing board of the Agency.

“*Bond Counsel*” means Jones Hall APLC.

“*Bureau Loan*” means the loan from the United States Department of the Interior to the Agency in the original aggregate principal amount of \$20,444,141.34 pursuant to the Contract Between the United States and the Monterey Regional Water Pollution Control Agency for a Loan for Construction of a Small Reclamation Project (Contract No. 5-07-W1284), dated as of June 2, 1995, as amended from time to time.

“*Business Day*” means a day which is not (a) a Saturday, Sunday or legal holiday on which banking institutions in New York, New York or the state where the principal corporate office of the Agency is located are authorized by law to close, (b) a day on which the New York Stock Exchange or the Federal Reserve Bank is closed or (c) a day on which the principal office of the Bank is closed.

“*Change in Law*” means the occurrence, after the Effective Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “*Change in Law*”, regardless of the date enacted, adopted or issued (other than any rule thereunder that has been adopted and fully implemented prior to the Effective Date).

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

“*Collateral*” means (i) the Net Revenues, (ii) all proceeds of the PWMGRP SRF Loan, (iii) all Proposition 1 Water Recycling Funding Program Construction Grant Monies, (iv) all Proposition 1 Storm Water Grant Monies and (v) all other funds of the Agency which are legally available for payment of the Payment Obligations and other Net Revenue Debt, including but not limited to investment earnings thereon and any proceeds of any of the foregoing, including but not limited to investment earnings thereon and any proceeds of any of the foregoing.

“*Commitment*” means the obligation of the Bank to make future Revolving Loans of the unfunded portion of the Available Commitment hereunder subject to the terms and conditions of this Agreement.

“*Commitment Amount*” means \$15,000,000.

“*Commitment Fee Rate*” means a rate per annum associated with the Level corresponding to the lowest long-term unenhanced debt rating(s) assigned by any of Moody’s, Fitch or S&P to any Senior Debt (each, a “*Rating*”), as specified below.

LEVEL	MOODY’S RATING	S&P RATING	FITCH RATING	COMMITMENT FEE RATE
Level 1	A2 or above	A or above	A or above	0.275%
Level 2	A3	A-	A-	0.425%
Level 3	Baa1	BBB+	BBB+	0.715%
Level 4	Baa2	BBB	BBB	1.30%

In the event of split Ratings (*i.e.*, one of the Rating Agencies’ Rating is at a different Level than the Rating of another Rating Agency), the Commitment Fee Rate shall be based upon the Level in which the lowest Rating(s) appears. Any change in the Commitment Fee Rate resulting from a change in a Rating shall be and become effective as of and on the date that the change in such Rating is published by such Rating Agency. References to Ratings above are references to rating categories as presently determined by the Rating Agencies and in the event of adoption of any new or changed rating system, the ratings from the Rating Agency in question referred to above shall be deemed to refer to the rating category under the new rating system that most closely approximates the applicable rating category as currently in effect. The Agency acknowledges that as of the Effective Date the Commitment Fee Rate is that specified above for Level 1. In the event that any Rating is withdrawn or otherwise unavailable from any Rating Agency for credit-related reasons and upon the occurrence and during the continuance of an Event of Default, the Commitment Fee Rate then in effect shall be increased by an additional one hundred fifty (150) basis points (1.50%) from the Commitment Fee Rate otherwise in effect.

“*Commitment Termination Date*” means the earlier of (i) the Stated Commitment Expiration Date, (ii) the date Commitment terminates or (iii) the date the Available Commitment is reduced to zero in accordance with the terms hereof.

“*Compliance Certificate*” means a certificate in the form attached to this Agreement as Exhibit J.

“*Debt*” means all items that would be classified as a liability in accordance with GAAP, including, without limitation, (a) indebtedness or liability for borrowed money, or for the deferred purchase price of property or services (including trade obligations); (b) obligations as lessee under leases which should have been, or should be, recorded as capital leases in accordance with GAAP; (c) current liabilities in respect of unfunded benefits under employee benefit, retirement or pension plans; (d) obligations issued for the account of any other Person; (e) all obligations arising under acceptance facilities; (f) all guarantees, endorsements (other than for collection or deposit in the



ordinary course of business) and other contingent obligations to purchase, to provide funds for payment, to supply funds to invest in any other Person or otherwise to assure a creditor against loss; (g) obligations secured by any mortgage, lien, pledge, security interest or other charge or encumbrance on property, whether or not the obligations have been assumed and (h) obligations of the Agency under any Swap Contract.

“*Debt Service*” means, for any Fiscal Year, the sum of (1) the interest falling due during such Fiscal Year on all Net Revenue Debt (which are outstanding under the Net Revenue Debt Issuing Documents), assuming that all outstanding serial Net Revenue Debt are retired as scheduled and that all outstanding term Net Revenue Debt are redeemed from sinking fund payments as scheduled (except to the extent that such interest has been fully capitalized and invested in Federal Securities which 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 Net Revenue Debt (which are outstanding under the Net Revenue Debt Issuing Documents) falling due by their terms during such Fiscal Year, (3) the minimum amount of term Net Revenue Debt (which are outstanding under the Net Revenue Debt Issuing Documents) 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 Net Revenue Debt are not yet outstanding, the initial rate (if established and binding), (ii) if the Net Revenue Debt have been outstanding for at least twelve (12) months, the average rate over the twelve (12) months immediately preceding the date of calculation, and (iii) (x) if interest on the Net Revenue Debt is excludable from gross income for federal income tax purposes, the most recently published *The Bond Buyer* Bond Revenue Index (or comparable index if no longer published) plus fifty (50) basis points, or (y) if interest is not so excludable, the interest rate on direct U.S. Treasury Obligations with comparable maturities, plus fifty (50) basis points, (4) the Payment Obligations (except to the extent that interest has been fully capitalized and is invested in Federal Securities which mature at times and in such amounts as are necessary to pay the interest to which such amounts are pledged) required to be paid hereunder during such Fiscal Year.

“*Default*” means any condition or event which, with the giving of notice or lapse of time or both would unless cured or waived become an Event of Default.

“*Default Rate*” means, for any day, a fluctuating rate of interest per annum equal to the greatest of: (i) the Prime Rate in effect on such day *plus* five percent (5.00%), (ii) the Federal Funds Rate in effect on such day *plus* six percent (6.00%), (iii) the LIBOR Rate *plus* six percent (6.00%), and (iv) ten percent (10.00%); *provided, however*, that in no event shall the Default Rate exceed the applicable Maximum Interest Rate then in effect.

“*Designated Jurisdiction*” means any country or territory to the extent that such country or territory itself is the subject of any Sanction.

“*Determination of Taxability*” means and shall be deemed to have occurred on the first to occur of the following:

(i) on the date when the Agency files any statement, supplemental statement or other tax schedule, return or document which discloses that an Event of Taxability has occurred;

(ii) on the date when the Bank notifies the Agency that it has received a written opinion by a nationally recognized firm of attorneys of substantial expertise on the subject of tax-exempt municipal finance to the effect that an Event of Taxability shall have occurred unless, within one hundred eighty (180) days after receipt by the Agency of such notification from the Bank, the Agency shall deliver to the Bank, a ruling or determination letter issued to or on behalf of the Agency by the Commissioner of the Internal Revenue Service or the Director of Tax-Exempt Bonds of the Tax-Exempt and Government Entities Division of the Internal Revenue Service (or any other government official exercising the same or a substantially similar function from time to time) to the effect that, after taking into consideration such facts as form the basis for the opinion that an Event of Taxability has occurred, an Event of Taxability has not occurred;

(iii) on the date when the Agency shall be advised in writing by the Commissioner of the Internal Revenue Service or the Director of Tax-Exempt Bonds of the Tax-Exempt and Government Entities Division of the Internal Revenue Service (or any other government official exercising the same or a substantially similar function from time to time, including an employee subordinate to one of these officers who has been authorized to provide such advice) that, based upon filings of the Agency, or upon any review or audit of the Agency or upon any other ground whatsoever, an Event of Taxability shall have occurred; or

(iv) on the date when the Agency shall receive notice from the Bank that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed as includable in the gross income of the Bank or any Participants the interest on any Tax-Exempt Revolving Loan due to the occurrence of an Event of Taxability;

*provided, however*, no Determination of Taxability shall occur under subparagraph (iii) or (iv) hereunder unless the Agency has been afforded the reasonable opportunity, at its expense, to contest any such assessment, and, further, no Determination of Taxability shall occur until such contest, if made, has been finally determined; *provided further, however*, that upon demand from the Bank, the Agency shall promptly reimburse the Bank for any payments, including any taxes, interest, penalties or other charges, the Bank shall be obligated to make as a result of the Determination of Taxability.

“*Dollar*” and “*\$*” mean lawful money of the United States.

“*Effective Date*” means April 8, 2020.

“*Environmental Laws*” means any and all federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or other governmental restrictions relating to the environment or to emissions, discharges or releases of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes into the environment, including, without limitation, ambient air, surface water, ground water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes or the clean up or other remediation thereof.

“*Event of Default*” means any event or circumstance specified in Section 9.1 hereof.

“*Event of Insolvency*” means, with respect to any Person, the occurrence of one or more of the following events:

(a) the issuance, under the laws of any state or under the laws of the United States of America, of an order of rehabilitation, liquidation or dissolution of such Person;

(b) the commencement by or against such Person of a case or other proceeding seeking liquidation, reorganization or other relief with respect to such Person or its debts under any bankruptcy, insolvency or other similar state or federal law now or hereafter in effect, including, without limitation, the appointment of a trustee, receiver, liquidator, custodian or other similar official for such Person or any substantial part of its property or there shall be appointed or designated with respect to it, an entity such as an organization, board, commission, authority, agency or body to monitor, review, oversee, recommend or declare a financial emergency or similar state of financial distress with respect to it or there shall be declared or introduced or proposed for consideration by it or by any legislative or regulatory body with competent jurisdiction over it, the existence of a state of financial emergency or similar state of financial distress in respect of it;

(c) the making of an assignment for the benefit of creditors by such Person;

(d) the failure of such Person to generally pay its debts as they become due;

(e) a debt moratorium, debt adjustment, debt restructuring or comparable restriction with respect to the payment of any indebtedness of such Person is declared or imposed by such Person or by any governmental authority having jurisdiction over such Person;

(f) such Person shall admit in writing its inability to pay its debts when due; or

(g) the initiation of any actions to authorize any of the foregoing by or on behalf of such Person.

*“Event of Taxability”* means a (i) change in Law or fact or the interpretation thereof, or the occurrence or existence of any fact, event or circumstance (including, without limitation, the taking of any action by the Agency, or the failure to take any action by the Agency, or the making by the Agency of any misrepresentation herein or in any certificate required to be given in connection with this Agreement) which has the effect of causing interest paid or payable on any Tax-Exempt Revolving Loan to become includable, in whole or in part, in the gross income of the Bank or any Participant for federal income tax purposes or (ii) the entry of any decree or judgment by a court of competent jurisdiction, or the taking of any official action by the Internal Revenue Service or the Department of the Treasury, which decree, judgment or action shall be final under applicable procedural law, in either case, which has the effect of causing interest paid or payable on any Tax-Exempt Revolving Loan to become includable, in whole or in part, in the gross income of the Bank or any Participant for federal income tax purposes with respect to any Tax-Exempt Revolving Loan.

*“Executive Order”* means the Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

*“Existing Agreement”* means that certain Amended and Restated Credit Agreement, dated as of May 1, 2019, by and between the Agency and Bank of the West.

*“Existing Note”* means that certain Amended and Restated Promissory Note delivered by the Agency to Bank of the West in connection with the Existing Agreement and attached to the Existing Agreement as Exhibit A-1.

*“Federal Funds Rate”* means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to the Bank on such day on such transactions as determined by the Bank.

*“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.

*“Financial Consultant”* means any consultant or firm of such consultants appointed by the Agency and who, or each of whom: (a) is judged by the Agency to have experience in matters relating to the financing of wastewater enterprises; (b) is in fact independent and not under domination of the Agency; (c) does not have any substantial interest, direct or indirect, with the Agency; and (d) is not connected with the Agency as an officer or employee of the Agency, but who may be regularly retained to make reports to the Agency.

“*Fiscal Year*” means the period commencing on July 1 of each year and terminating on the next succeeding June 30.

“*Fitch*” means Fitch Inc., or its successors.

“*FRB*” means the Board of Governors of the Federal Reserve System of the United States, together with any successors thereof.

“*General Fund*” means the fund of the Agency into which it deposits Gross Revenues.

“*Generally Accepted Accounting Principles*” or “*GAAP*” means generally accepted accounting principles in effect from time to time in the United States and applicable to entities such as the Agency, including, without limitation, those principles set forth in the statements and pronouncement of the Government Accounting Standards Board.

“*Governmental Approval*” means an authorization, consent, approval, license, or exemption of, registration or filing with, or report to any Governmental Authority.

“*Governmental Authority*” means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“*Gross Revenues*” means all gross charges received for, and all other gross income and receipts derived by the Agency from, the ownership and operation of the Wastewater System or otherwise arising from the Wastewater System, including but not limited to investment earnings on such income and receipts; but excluding (a) the proceeds of any special assessments or special taxes levied upon real property within any improvement district served by the Agency levied for the purpose of paying special assessment bonds or special tax obligations of the Agency relating to the Wastewater System, and (b) any taxes levied for the sole purpose of providing for payment of principal and interest on any voter-approved indebtedness incurred by the Agency, which taxes would not otherwise be subject to levy but for the issuance of such indebtedness. Gross Revenues shall include interest with respect to any Parity Obligations reimbursed to or on behalf of the Agency by the United States of America. Gross Revenues shall also include any loans, reimbursements or other amounts received by the Agency from any other Person, including without limitation, the State of California, acting by and through its State Water Resources Control Board, derived by the Agency from, the ownership and operation of the Wastewater System or otherwise arising from the Wastewater System.

“*Indemnified Party*” has the meaning set forth in Section 5.2 hereof.

“*Independent Accountant*” means any accountant or firm of such accountants appointed and paid by the Agency, and who, or each of whom (a) is in fact independent and not under domination of the Agency; (b) does not have any substantial interest, direct or indirect, with the

Agency; and (c) is not connected with the Agency as an officer or employee of the Agency, but who may be regularly retained to make annual or other audits of the books of or reports to the Agency.

*“Interest Payment Date”* means, as to any Revolving Loan, each Quarterly Payment Date, the Revolving Loan Maturity Date, any Prepayment Date and the Commitment Termination Date.

*“Interest Period”* means the period from and including an Interest Payment Date to but excluding the immediately succeeding Interest Payment Date.

*“JPA Agreement”* means the Joint Exercise of Powers Agreement for the Monterey Regional Water Pollution Control Agency, as amended from time to time.

*“Laws”* means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

*“LIBOR Rate”* means the rate per annum equal to the London Interbank Offered Rate, or a comparable or successor rate which rate is approved by the Bank, as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Bank from time to time) at or about 11:00 a.m., London time, two (2) London Banking Days prior to the date in question, for Dollar deposits with a one-month term; provided that (i) to the extent a comparable or successor rate is approved by the Bank in connection herewith, the approved rate shall be applied in a manner consistent with market practice; provided, further that to the extent such market practice is not administratively feasible for the Bank, such approved rate shall be applied in a manner as otherwise reasonably determined by the Bank and (ii) if the LIBOR Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement.

*“LIBOR Screen Rate”* means the LIBOR Rate quote on the applicable screen page the Bank designates to determine the LIBOR Rate (or such other commercially available source providing such quotations as may be designated by the Bank from time to time).

*“LIBOR Termination Date”* means the earliest date on which any of the events set forth in Section 3.6 or 3.7 hereof occurs.

*“Lien”* means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

“*Line of Credit*” has the meaning provided in the Recitals hereto.

“*Loan Date*” means the date on which the Bank honors a Request for Loan and makes the funds requested available to the Agency.

“*Loan Documents*” means this Agreement, the Notes, the Resolution, the PWMGRP SRF Loan/Proposition 1 Water Recycling Funding Program Construction Grant Documents, the Proposition 1 Storm Water Grant Documents and any documents related thereto.

“*London Banking Day*” means any day on which dealings in United States dollar deposits are conducted by and between banks in the London interbank eurodollar market.

“*Margin Rate Factor*” means the greater of (i) 1.0 and (ii) the product of (A) one minus the Maximum Federal Corporate Tax Rate multiplied by (B) 1.53846. The effective date of any change in the Margin Rate Factor shall be the effective date of the decrease or increase (as applicable) in the Maximum Federal Corporate Tax Rate resulting in such change.

“*Material Adverse Effect*” means an event or occurrence which adversely affects in a material manner (a) the assets, liabilities, condition (financial or otherwise), business or operations of the Wastewater System (including the Net Revenues generated therefrom), (b) the ability of the Agency to carry out its business as of the date of this Agreement or as proposed herein to be conducted or to meet or perform its obligations under this Agreement or any of the other Loan Documents on a timely basis, (c) the validity or enforceability of this Agreement or any other Loan Document or (d) the rights or remedies of the Bank under this Agreement, the Notes or any other Loan Document.

“*Maximum Annual Debt Service*” means the largest annual Debt Service on the Net Revenue Debt during the period from the date of such determination through the final maturity date of the Net Revenue Debt; *provided*, that for purposes of such calculation, the principal amount of the outstanding Payment Obligations due and payable on the Revolving Loan Maturity Date shall be assumed to be paid in equal annual installments sufficient to fully amortize such principal over a ten (10) year term commencing on the Stated Commitment Expiration Date.

“*Maximum Federal Corporate Tax Rate*” means the maximum interest rate of income taxation imposed on corporations pursuant to Section 11(b) of the Code, as in effect from time to time (or, if as a result of a change in the Code, the rate of income taxation imposed on corporations generally shall not be applicable to the Bank, the maximum statutory rate of federal income taxation which could apply to the Bank). As of the Effective Date, the Maximum Federal Corporate Tax Rate is twenty-one percent (21%).

“*Maximum Interest Rate*” means the maximum rate of interest on the relevant obligation permitted by applicable law.

“*Moody’s*” means Moody’s Investors Service, Inc., or its successors.

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

“*Net Revenue Debt*” means any bonds, notes, leases, installment sale agreements or other obligations, Debt or indebtedness of the Agency payable from and secured by a pledge of and lien upon any of the Net Revenues, including the Payment Obligations, and any Senior Debt and any Subordinate Debt entered into or issued or incurred under and in accordance with Section 8.2.

“*Net Revenue Debt Issuing Documents*” means, collectively, the indenture of trust, trust agreement, loan agreement, installment sale agreement, resolution or other document authorizing or evidencing the issuance or incurrence of any Net Revenue Debt.

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

“*Notes*” means collectively, the Tax-Exempt Note and the Taxable Note.

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

“*One-Time Revenues*” means, for any period, the portion of Gross Revenues during such period that are one-time, extraordinary or nonrecurring revenues.

“*Operation and Maintenance Costs*” means the reasonable and necessary costs and expenses paid by the Agency for maintaining and operating the Wastewater System, including but not limited to (a) costs of electricity and other forms of energy supplied to the Wastewater System, (b) the reasonable expenses of management and repair and other costs and expenses necessary to maintain and preserve the Wastewater System in good repair and working order, and (c) the reasonable administrative costs of the Agency attributable to the operation and maintenance of the Wastewater System; but in all cases excluding (i) debt service payable on the Senior Debt, the Subordinate Debt and any other obligations incurred by the Agency with respect to the Wastewater System, (ii) depreciation, replacement and obsolescence charges or reserves therefor, (iii) amortization of intangibles or other bookkeeping entries of a similar nature, and (iv) costs and expenses which are treated by the Agency as capital expenditures.

“*Parity Obligations*” has the meaning given to such term in the Net Revenue Debt Issuing Documents, which are issued or incurred in accordance with the provisions set forth in Section 8.2 hereof.

“*Participant*” has the meaning set forth in Section 10.9 hereof.

“*Patriot Act*” has the meaning set forth in Section 10.12 hereof.

“*Payment Obligations*” has the meaning provided in the Recitals hereto.



“*Person*” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“*Prepayment Date*” means any Business Day the Agency prepays any Revolving Loan in whole or in part.

“*Prime Rate*” means on any day, the rate of interest per annum then most recently established by the Bank as its “*prime rate*.” The “*prime rate*” is a rate set by the Bank based upon various factors including the Bank’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such rate announced by the Bank shall take effect at the opening of business on the day specified in the public announcement of such change.

“*Project Costs*” means the costs of the Pure Water Monterey Groundwater Replenishment Project reimbursable from the SRF Loans, a Proposition 1 Water Recycling Funding Program Construction Grant and/or a Proposition 1 Storm Water Grant, and other Agency capital projects and capital outlay.

“*Property*” means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible, whether now owned or hereafter acquired.

“*Proposition 1 Storm Water Grant*” means a portion of a grant made by the State, acting by and through its State Water Resources Control Board, pursuant to the Storm Water Grant Program (SWGP) pursuant to the Proposition 1 Storm Water Grant Documents, but only such portion that relates to the Pure Water Monterey Groundwater Replenishment Project. As of the Effective Date, the State, acting by and through its State Water Resources Control Board, has committed to provide the Proposition 1 Storm Water Grant in the amount of \$2,449,169 (of \$10,000,000 total amount of such grant) pursuant to the Proposition 1 Storm Water Grant Documents.

“*Proposition 1 Storm Water Grant Documents*” means, with respect to the Proposition 1 Storm Water Grant, the Grant Storm Water Construction/Implementation MRWPCA and City of Salinas Storm Water Project for the Salinas Region Agreement No. D1712659 originally executed on October 27, 2017 and all amendments or supplements thereto and any all other documents evidencing the Proposition 1 Storm Water Grant.

“*Proposition 1 Storm Water Grant Monies*” means any monies received by the Agency from a Proposition 1 Storm Water Grant.

“*Proposition 1 Water Recycling Funding Program Construction Grant*” means a grant made by the State, acting by and through its State Water Resources Control Board, pursuant to the Water Recycling Funding Program (WRFP) pursuant to the Proposition 1 Storm Water Grant Documents. As of the Effective Date, the State, acting by and through its State Water Resources Control Board, has committed to provide the Proposition 1 Water Recycling Funding Program Construction Grant in the amount of \$15,000,000 pursuant to the PWMGRP SRF Loan/Proposition 1 Water Recycling Funding Program Construction Grant Documents.

*“Proposition 1 Water Recycling Funding Program Construction Grant Monies”* means any monies received by the Agency from a Proposition 1 Water Recycling Funding Program Construction Grant.

*“Pure Water Monterey Groundwater Replenishment Project”* is a water recycling project, jointly developed by the Monterey Peninsula Water Management District and the Agency, which project will provide (i) purified recycled water for replenishment of the Seaside Groundwater Basin that serves as drinking water supply for the residents of the Monterey Peninsula and (ii) recycled water to augment the existing Castroville Seawater Intrusion Project’s agricultural irrigation supply. The project components include: conveyance of three potential types of source waters to the Agency’s Regional Treatment Plant for treatment, the new Advanced Water Treatment Facility and other improvements to the Agency’s Regional Treatment Plant; a purified recycled water conveyance system, including pipelines and pump station; groundwater injection and monitoring wells.

*“PWMGRP SRF Loan”* means the state revolving fund loan made by the State of California, acting by and through its State Water Resources Control Board, to the Agency in an aggregate principal amount not less than \$124,810,951 for the purpose of financing the costs of the Pure Water Monterey Groundwater Replenishment Project, as entered into or issued or incurred under and in accordance with Section 8.2(c) and as the same may be amended from time to time. As of the Effective Date, the State, acting by and through its State Water Resources Control Board, has committed to provide the PWMGRP SRF Loan in the aggregate principal amount of \$124,810,951 (of which, the State, acting by and through its State Water Resources Control Board, has committed to provide \$15,000,000 as the Proposition 1 Water Recycling Funding Program Construction Grant) pursuant to the PWMGRP SRF Loan/Proposition 1 Water Recycling Funding Program Construction Grant Documents.

*“PWMGRP SRF Loan/Proposition 1 Water Recycling Funding Program Construction Grant Documents”* means the Installment Sale Agreement and Grant Pure Water Monterey Groundwater Replenishment Project Clean Water State Revolving Fund Water Recycling Project No. C-06-8028-110 Agreement No. D16-01033 originally executed on April 12, 2017, as amended by the Installment Sale Agreement and Grant Pure Water Monterey Groundwater Replenishment Project Clean Water State Revolving Fund Water Recycling Project No. C-06-8028-110 Agreement No. D16-01033 Amendment No. 1 executed on December 28, 2017, the Installment Sale Agreement and Grant Pure Water Monterey Groundwater Replenishment Project Clean Water State Revolving Fund Water Recycling Project No. C-06-8028-110 Agreement No. D16-01033 Amendment No. 2 executed on March 28, 2018 and the Installment Sale Agreement and Grant Pure Water Monterey Groundwater Replenishment Project Clean Water State Revolving Fund Water Recycling Project No. C-06-8028-110 CALSTARS Agreement No. D16-01033 Amendment No. 3 executed on April 19, 2019 and all further amendments or supplements thereto and any all other documents evidencing the PWMGRP SRF Loan and/or the Proposition 1 Water Recycling Funding Program Construction Grant.

*“Quarterly Payment Date”* means the first Business Day of each January, April, July and October, commencing on July 1, 2020.

“*Rating Agency*” means Fitch, Moody’s or S&P or any other nationally recognized rating agency with a Senior Debt Long-Term Credit Rating then in effect.

“*Related Parties*” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person’s Affiliates.

“*Request for Loan*” means any request for a Revolving Loan made by the Agency to the Bank, in the form of Exhibit B hereto, executed and delivered on behalf of the Agency by an Authorized Representative of the Agency.

“*Resolution*” means the resolution of the Agency adopted by the Board of Directors of the Agency on November 25, 2019, together with any other resolutions or proceedings taken by the Agency in connection with the execution and delivery of this Agreement, the Notes and the other Loan Documents.

“*Revolving Loan*” means Taxable Revolving Loans, Tax-Exempt Revolving Loans and if applicable, Tax-Exempt SIFMA Rate Loans.

“*Revolving Loan Maturity Date*” means, with respect to any Revolving Loan, the Commitment Termination Date or any earlier date on which all amounts due under the Loan Documents (including without limitation all Revolving Loans) are accelerated pursuant to Section 9.2 hereof.

“*S&P*” means S&P Global Ratings, and any successor rating agency.

“*Sanction(s)*” means any sanction administered or enforced by the United States Government (including, without limitation, OFAC), the United Nations Security Council, the European Union, Her Majesty’s Treasury or other relevant sanctions authority.

“*Senior Debt*” means any bonds, notes, leases, installment sale agreements or other obligations, Debt or indebtedness of the Agency payable from and secured by a pledge of and lien upon any of the Net Revenues on a basis senior to the lien on Net Revenues securing the Payment Obligations, entered into or issued or incurred under and in accordance with Section 8.2, and which constitutes Parity Obligations under the Net Revenue Debt Issuing Documents, including without limitation the Series 2012 Bonds, the Series 2013 Bonds, the Bureau Loan (but only so long as the Agency’s Salinas Valley Reclamation Project is included as part of the Wastewater System) and the PWMGRP SRF Loan.

“*Senior Debt Issuing Documents*” means, collectively, the indenture of trust, trust agreement, loan agreement, installment sale agreement, resolution or other document authorizing or evidencing the issuance or incurrence of any Senior Debt.

“*Senior Debt Long-Term Credit Rating*” means unenhanced long-term credit ratings issued by one or more rating agencies for any Senior Debt.

“*Series 2012 Bonds*” means the \$8,855,000 original aggregate principal amount of Monterey Regional Water Pollution Control Agency Taxable Wastewater Refunding Revenue Bonds, Series 2012 currently outstanding in the aggregate principal amount of \$5,800,000.

“*Series 2013 Bonds*” means the \$12,241,618.58 original aggregate principal amount of Monterey Regional Water Pollution Control Agency Wastewater Revenue Refunding Bonds, Series 2013 currently outstanding in the aggregate principal amount of \$7,152,153.

“*SIFMA*” means the Securities Industry & Financial Markets Association (formerly the Bond Market Association).

“*SIFMA Accrual Period*” means Thursday of each calendar week to but not including Thursday of the immediately succeeding calendar week.

“*SIFMA Applicable Spread*” means a rate per annum associated with the Level corresponding to the lowest long-term unenhanced debt rating(s) assigned by any of Moody’s, Fitch or S&P to any Senior Debt (each, a “*Rating*”), as specified below.

LEVEL	MOODY’S RATING	S&P RATING	FITCH RATING	APPLICABLE SPREAD
Level 1	A2 or above	A or above	A or above	0.45%
Level 2	A3	A-	A-	0.60%
Level 3	Baa1	BBB+	BBB+	0.90%
Level 4	Baa2	BBB	BBB	1.35%

In the event of split Ratings (*i.e.*, one of the Rating Agencies’ Rating is at a different Level than the Rating of another Rating Agency), the SIFMA Applicable Spread shall be based upon the Level in which the lowest Rating(s) appears; *provided* the Bank acknowledges that any decision to increase the SIFMA Applicable Spread shall be in the Bank’s sole discretion. Any change in the SIFMA Applicable Spread resulting from a change in a Rating shall be and become effective upon election by the Bank but no sooner than the date that the change in such Rating is published by such Rating Agency. References to Ratings above are references to rating categories as presently determined by the Rating Agencies and in the event of adoption of any new or changed rating system, the ratings from the Rating Agency in question referred to above shall be deemed to refer to the rating category under the new rating system that most closely approximates the applicable rating category as currently in effect. The Agency acknowledges that as of the Effective Date the SIFMA Applicable Spread is that specified above for Level 1. In the event that any Rating is withdrawn or otherwise unavailable from any Rating Agency for credit-related reasons, the SIFMA Applicable Spread then in effect shall be increased by an additional one hundred fifty (150) basis points (1.50%) from the SIFMA Applicable Spread otherwise in effect until such rating is restored.

“*SIFMA Computation Date*” means Wednesday of each week, or if any Wednesday is not a Business Day, the next succeeding Business Day.

“*SIFMA Index*” means, for any date computed, the level of the index which is issued weekly and which is compiled from the weekly interest rate resets of tax-exempt variable rate issues included in a database maintained by Municipal Market Data which meet specific criteria established from time to time by SIFMA and issued on Wednesday of each week, or if any Wednesday is not a Business Day, the next succeeding Business Day; *provided, however*, if the SIFMA Index is no longer published, “SIFMA Index” shall mean the S&P Weekly High Grade Index; *provided further* that if the S&P Weekly High Grade Index is no longer published, “SIFMA Index” shall mean the prevailing rate determined by the Bank for tax-exempt state and local government bonds meeting criteria determined in good faith by the Bank to be comparable under the circumstances to the criteria used by SIFMA to determine the SIFMA Index immediately prior to the date on which SIFMA ceased publication of the SIFMA Index. Notwithstanding any of the above, if the SIFMA Index shall be less than zero on any given day, such rate shall be deemed to be zero for purposes of the financing documents.

“*SIFMA Index Rate*” means a fixed per annum rate of interest established on each SIFMA Computation Date, for the applicable SIFMA Accrual Period, equal to the sum of: (i) the SIFMA Index and (ii) the SIFMA Applicable Spread; *provided, however*, that immediately and upon the occurrence of an Event of Default (and without any notice given with respect thereto) and during the continuation of such Event of Default, “*SIFMA Index Rate*” shall mean the Default Rate. Interest shall be adjusted concurrently with any change in the SIFMA Index Rate.

“*SRF Loans*” means (a) the PWMGRP SRF Loan and (b) such other future state revolving fund loan program loan contracts entered into between the State, acting by and through its State Water Resources Control Board, and the Agency for the purpose of financing and refinancing the costs of capital improvements to the Wastewater System, in each case as entered into or issued or incurred under and in accordance with Section 8.2(e) and as the same may be amended from time to time.

“*State*” means the State of California.

“*Stated Commitment Expiration Date*” means April 8, 2022 unless extended as provided herein.

“*Subordinate Debt*” means any bonds, notes, leases, installment sale agreements or other obligations, Debt or indebtedness of the Agency payable from and secured by a pledge of and lien upon any of the Net Revenues on a parity with the lien on Net Revenues securing the Payment Obligations, entered into or issued or incurred under and in accordance with Section 8.2, including without limitation, the Payment Obligations.

“*Subordinate Debt Issuing Documents*” means, collectively, this Agreement, the indenture of trust, trust agreement, loan agreement, installment sale agreement, resolution or other document authorizing or evidencing the issuance or incurrence of any Subordinate Debt.

“*Swap Contract*” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index

swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “*Master Agreement*”), including any such obligations or liabilities under any Master Agreement.

“*Taxable Applicable Spread*” means a rate per annum associated with the Level corresponding to the lowest long-term unenhanced debt rating(s) assigned by any of Moody’s, Fitch or S&P to any Senior Debt (each, a “*Rating*”), as specified below.

LEVEL	MOODY’S RATING	S&P RATING	FITCH RATING	APPLICABLE SPREAD
Level 1	A2 or above	A or above	A or above	0.49%
Level 2	A3	A-	A-	0.64%
Level 3	Baa1	BBB+	BBB+	0.94%
Level 4	Baa2	BBB	BBB	1.39%

In the event of split Ratings (*i.e.*, one of the Rating Agencies’ Rating is at a different Level than the Rating of another Rating Agency), the Taxable Applicable Spread shall be based upon the Level in which the lowest Rating(s) appears; *provided* the Bank acknowledges that any decision to increase the Taxable Applicable Spread shall be in the Bank’s sole discretion. Any change in the Taxable Applicable Spread resulting from a change in a Rating shall be and become effective upon election by the Bank but no sooner than the date that the change in such Rating is published by such Rating Agency. References to Ratings above are references to rating categories as presently determined by the Rating Agencies and in the event of adoption of any new or changed rating system, the ratings from the Rating Agency in question referred to above shall be deemed to refer to the rating category under the new rating system that most closely approximates the applicable rating category as currently in effect. The Agency acknowledges that as of the Effective Date the Taxable Applicable Spread is that specified above for Level 1. In the event that any Rating is withdrawn or otherwise unavailable from any Rating Agency for credit-related reasons, the Taxable Applicable Spread then in effect shall be increased by an additional one hundred fifty (150) basis points (1.50%) from the Taxable Applicable Spread otherwise in effect until such rating is restored.

“*Taxable Floating Rate*” means a fully floating rate per annum (rounded upward to the fourth decimal place) equal to the sum of: (i) the LIBOR Rate and (ii) the Taxable Applicable Spread; *provided, however*, that immediately and upon the occurrence of an Event of Default (and without any notice given with respect thereto) and during the continuation of such Event of Default, “*Taxable Floating Rate*” shall mean the Default Rate.

“*Taxable Revolving Loan*” means any Revolving Loan bearing interest at the Taxable Floating Rate.

“*Tax-Exempt Applicable Spread*” means a rate per annum associated with the Level corresponding to the lowest long-term unenhanced debt rating(s) assigned by any of Moody’s, Fitch or S&P to any Senior Debt (each, a “*Rating*”), as specified below.

LEVEL	MOODY’S RATING	S&P RATING	FITCH RATING	APPLICABLE SPREAD
Level 1	A2 or above	A or above	A or above	0.35%
Level 2	A3	A-	A-	0.50%
Level 3	Baa1	BBB+	BBB+	0.80%
Level 4	Baa2	BBB	BBB	1.25%

In the event of split Ratings (*i.e.*, one of the Rating Agencies’ Rating is at a different Level than the Rating of another Rating Agency), the Tax-Exempt Applicable Spread shall be based upon the Level in which the lowest Rating(s) appears; *provided* the Bank acknowledges that any decision to increase the Tax-Exempt Applicable Spread shall be in the Bank’s sole discretion. Any change in the Tax-Exempt Applicable Spread resulting from a change in a Rating shall be and become effective upon election by the Bank but no sooner than the date that the change in such Rating is published by such Rating Agency. References to Ratings above are references to rating categories as presently determined by the Rating Agencies and in the event of adoption of any new or changed rating system, the ratings from the Rating Agency in question referred to above shall be deemed to refer to the rating category under the new rating system that most closely approximates the applicable rating category as currently in effect. The Agency acknowledges that as of the Effective Date the Tax-Exempt Applicable Spread is that specified above for Level 1. In the event that any Rating is withdrawn or otherwise unavailable from any Rating Agency for credit-related reasons, the Tax-Exempt Applicable Spread then in effect shall be increased by an additional one hundred fifty (150) basis points (1.50%) from the Tax-Exempt Applicable Spread otherwise in effect until such rating is restored.

“*Tax-Exempt Floating Rate*” means a fully floating rate per annum (rounded upward to the fourth decimal place) that is equal to the sum of (a) the product of (i) the LIBOR Rate, *multiplied* by (ii) the Applicable Factor, *plus* (b) the Tax-Exempt Applicable Spread; *provided, however*, that immediately and upon the occurrence of an Event of Default (and without any notice given with respect thereto) and during the continuation of such Event of Default, “*Tax-Exempt Floating Rate*” shall mean the Default Rate.

“*Tax-Exempt Revolving Loan*” means any Revolving Loan bearing interest at the Tax-Exempt Floating Rate.

“*Tax-Exempt SIFMA Rate Loan*” means any Revolving Loan bearing interest at the SIFMA Index Rate.

“*Taxes*” has the meaning provided in Section 5.5 hereof.

“*United States*” means the United States of America.

“*Wastewater System*” means the entire wastewater collection, transmission, treatment, disposal and reclamation system owned and operated by the Agency, including but not limited to all facilities, properties and improvements at any time owned or operated by the Agency for the collection, treatment and disposal of wastewater within the service area of the Agency, together with any necessary lands, rights, entitlements and other property useful in connection therewith, together with all extensions thereof and improvements thereto hereafter acquired, constructed or installed by the Agency; *provided*, that the Agency’s Salinas Valley Reclamation Project shall not be considered as part of the Wastewater System. The Pure Water Monterey Groundwater Replenishment Project shall be considered a part of the Wastewater System.

*Section 1.2. Accounting Terms and Determinations.* Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made and all financial statements required to be delivered hereunder shall be prepared in accordance with Generally Accepted Accounting Principles as in effect from time to time, applied on a consistent basis.

*Section 1.3. Interpretation.* The following rules shall apply to the construction of this Agreement unless the context requires otherwise: (i) the singular includes the plural, and the plural the singular; (ii) words importing any gender include the other gender; (iii) references to statutes are to be construed as including all statutory provisions consolidating and amending, and all regulations promulgated pursuant to, such statutes; (iv) references to “writing” include printing, photocopy, typing, lithography and other means of reproducing words in a tangible visible font; (v) the words “including,” “includes” and “include” shall be deemed to be followed by the words “without limitation”; (vi) references to the introductory paragraph, recitals, articles, sections (or clauses or subdivisions of sections), exhibits, appendices, annexes or schedules are to those of this Agreement unless otherwise indicated; (vii) references to agreements and other contractual instruments shall be deemed to include all subsequent amendments and other modifications to such instruments, but only to the extent that such amendments and other modifications are permitted or not prohibited by the terms of this Agreement; (viii) section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose; (ix) references to Persons include their respective permitted successors and assigns; and (x) in the computation of a period of time from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” each means “to but excluding.” All references to “funds” herein shall include all accounts and subaccounts therein unless the context clearly requires otherwise.

## **ARTICLE II**

### **APPLICATION AND ISSUANCE OF THE LINE OF CREDIT; PAYMENTS**

*Section 2.1. Application.* The Agency hereby applies to the Bank for, and authorizes and instructs the Bank to issue for its account, the Commitment in the initial Available Commitment.



*Section 2.2. Making of Revolving Loans; Use of Proceeds.* (a) Subject to the terms and conditions of this Agreement and in reliance upon the representations, warranties and agreements set forth herein, including without limitation satisfaction of the conditions set forth in Section 2.3(b) hereof, the Bank hereby agrees to make Tax-Exempt Revolving Loans and Taxable Revolving Loans, as applicable, from time to time on any Business Day prior to the Commitment Termination Date, in amounts not to exceed at any time outstanding the then-outstanding Available Commitment, in accordance with the procedures set forth in Section 2.2(c) hereof. Each Revolving Loan requested shall be in an amount equal to or greater than \$500,000 and integral multiples of \$100,000 in excess thereof. Each Revolving Loan shall be made solely for the purpose of providing funds to pay the Project Costs. The amount of any Revolving Loan shall not exceed the applicable Available Commitment (calculated without giving effect to such Revolving Loan made on such date) at 8:00 a.m. (California time) on such date.

(b) *Reborrowing.* Within the limits of this Section 2.2, the Agency may borrow, prepay pursuant to Section 3.4 hereof and reborrow under this Section 2.2. Upon any prepayment of a Revolving Loan, the Available Commitment shall be reinstated as set forth in the definition thereof.

(c) *Method of Borrowing.* Upon receipt of a Request for Loan by the Bank not later than 8:00 a.m. (California time), the Bank subject to the terms and conditions of this Agreement, including without limitation, satisfaction of the conditions precedent set forth in Section 2.3(b) hereof, shall be required to make a Revolving Loan by 11:30 a.m. (California time) on the day of the proposed Revolving Loan for the account of the Agency in an amount equal to the amount of the requested Revolving Loan. With respect to any such Request for Loan received by the Bank after 8:00 a.m. (California time), the Agency will be deemed to have submitted such Request for Loan not later than 8:00 a.m. (California time) on the following Business Day. Any Request for Loan shall be signed by an Authorized Representative. Each Revolving Loan shall be made by the Bank by wire transfer of immediately available funds to the Agency in accordance with the instructions set forth in the Request for Loan. Each Revolving Loan shall be made from the Bank's own funds. If, after examination, the Bank shall have determined that a Request for Loan does not conform to the terms and conditions hereof, then the Bank shall use its best efforts to give notice to the Agency to the effect that negotiation was not in accordance with the terms and conditions hereof and stating the reasons therefor. The Agency may attempt to correct any such nonconforming Request for Loan, if, and to the extent that, the Agency is entitled (without regard to the provisions of this sentence) and able to do so.

(d) *Initial Drawing.* Notwithstanding the requirements for making of Revolving Loans set forth in Section 2.2(a) above, the initial Revolving Loan hereunder on the Effective Date shall be in an amount equal to \$55,000; *provided* that the Agency still must complete a Request for Loan in compliance with Section 2.2(c) above.

*Section 2.3. Conditions Precedent.*

(a) *Conditions Precedent to Effective Date.* The obligations of the Bank to make the Commitment available hereunder shall be subject to the fulfillment of each of the following conditions precedent on or before the Effective Date in a manner satisfactory to the Bank:

(i) The Bank shall have received a fully executed original of this Agreement and the original Notes, duly issued by the Agency, and confirmation that the Notes are not held book-entry, that no CUSIP number has been assigned to the Notes, that the Notes are not rated and that the Notes are in a single denomination and is not divisible or transferable except to a bank, financial institution or a qualified investor and fully executed and full executed originals of the other Loan Documents or acknowledged copies of such other Loan Documents certified by an Authorized Representative as true, correct and complete copies thereof, and certifying that such documents were duly issued, adopted or executed and delivered, have not been modified, amended or rescinded and are in full force and effect on and as of the Effective Date.

(ii) The Bank shall have received a copy of the Resolution of the Agency authorizing the execution and delivery of this Agreement, the Notes and the other Loan Documents, certified as of the Effective Date by an Authorized Representative.

(iii) The Bank shall have received certified copies of all approvals, authorizations and consents of any trustee, or holder of any indebtedness or obligation of the Agency or any governmental agency or public authority, necessary for the Agency to enter into each of the Loan Documents and the transactions contemplated herein and therein.

(iv) The Bank shall have received certified copies of the Agency's JPA Agreement (including all amendments thereto and specifically including the second amendment thereto approving the name change for the Agency to Monterey One Water) and all legally required filings relating to the Agency, including without limitation, the most recent "Roster of Facts, Public Agencies" and the most recent "Notice of Joint Powers Agreement" with the California Secretary of State, and each certified by the California Secretary of State not more than thirty (30) days prior to the Effective Date and otherwise in form reasonably acceptable to the Bank.

(v) The Bank shall have received an opinion addressed to the Bank and dated the Effective Date of counsel to the Agency as to the due authorization, execution and delivery, validity and enforceability with respect to the Agency of this Agreement and the Notes and the other Loan Documents, and such other matters as the Bank may reasonably request, in form and substance satisfactory to the Bank.

(vi) The following statements shall be true and correct on the Effective Date, and the Bank shall have received a certificate incorporating by reference the definitions of the capitalized terms defined in this Agreement, signed by an Authorized Representative, dated the Effective Date, certifying the name, incumbency and specimen signature of each

individual authorized to sign this Agreement, the Notes and the other Loan Documents and the other documents or certificates to be delivered by the Agency pursuant hereto or thereto, on behalf of the Agency, and of each individual authorized to act on behalf of the Agency for purposes of this Agreement, on which the Bank may conclusively rely until a revised certificate is similarly delivered and as to the matters set forth in Sections 2.3(a)(xiii), (xiv), (xv) and (xvi) hereof.

(vii) The Bank shall have received an opinion addressed to the Bank and dated the Effective Date of bond counsel as to the due authorization, execution and delivery, validity and enforceability with respect to the Agency of this Agreement and the Notes and of the pledge of and subordinate lien on the Net Revenues and the pledge of and senior lien on the other Collateral to secure the Payment Obligations as described in Section 4.1 hereof, and to the effect that the interest on the Tax-Exempt Revolving Loans is excludable from gross income for federal income tax purposes and such other matters as the Bank may reasonably request, in form and substance satisfactory to the Bank.

(viii) The Bank shall have received such authorization documents, certifications, incumbency certificates and opinions with respect to the other parties to the transactions as the Bank may reasonably request, in form and substance satisfactory to the Bank.

(ix) The Bank shall have received evidence satisfactory to the Bank that as of the Effective Date the only Net Revenue Debt are the Series 2012 Bonds, the Series 2013 Bonds, the Bureau Loan (but only so long as the Agency's Salinas Valley Reclamation Project is included as part of the Wastewater System) and the PWMGRP SRF Loan.

(x) The Bank shall have received certified copies of the proceedings of the Board of Directors of the Agency approving all rate adjustments to become effective after the Effective Date.

(xi) The Bank shall have received evidence satisfactory to the Bank that the Agency maintains with responsible insurers all such insurance on the Wastewater System required by Section 7.13 hereof and evidence satisfactory to the Bank that the Bank will receive thirty (30) days' prior written notice of any cancellation of any such insurance policy and evidence satisfactory to the Bank that all premiums necessary to be paid for the effectiveness of such insurance have been paid by the Agency.

(xii) The representations and warranties of the Agency contained in each of the Loan Documents and each certificate, letter, other writing or instrument delivered by the Agency to the Bank pursuant hereto or thereto are true and correct on and as of the Effective Date as though made on and as of such date.

(xiii) No Default or Event of Default has occurred and is continuing or would result from the execution and delivery of this Agreement or the making of the Commitment.

(xiv) Since the most current date of the information, financial or otherwise, supplied by the Agency to the Bank, there has been no change in the assets, liabilities,

financial position or results of operations of the Agency which might reasonably be anticipated to cause a Material Adverse Effect and the Agency has not incurred any obligations or liabilities which might reasonably be anticipated to cause a Material Adverse Effect.

(xv) The Bank shall have received certified copies of the final executed PWMGRP SRF Loan/Proposition 1 Water Recycling Funding Program Construction Grant Documents and the final executed Proposition 1 Storm Water Grant Documents and evidence of eligibility to receive proceeds of the PWMGRP SRF Loan, Proposition 1 Water Recycling Funding Program Construction Grant Monies and Proposition 1 Storm Water Grant Monies.

(xvi) All necessary action on the part of the Agency shall have been taken as required for the valid pledge of and subordinate lien on the Net Revenues and the pledge of and senior lien on the other Collateral to secure the Payment Obligations as described in Section 4.1 hereof.

(xvii) The Bank shall be reasonably satisfied that, in connection with the preparation, issuance, execution, delivery and filing of this Agreement, the Notes and the other Loan Documents, the fee of the California Debt and Investment Advisory Commission, if any, shall have been paid and that payment will be made to the Bank promptly after demand therefor after the Effective Date of fees and disbursements of the Bank's counsel (for disbursement by the Bank to its counsel).

(xviii) All other legal matters pertaining to the execution and delivery of each of the Loan Documents and the adoption and implementation of the Resolution shall be reasonably satisfactory to the Bank and its counsel.

(xix) The Bank shall have received evidence that all required filings with the California Debt and Investment Advisory Commission have been or will be made.

(xx) The Bank shall have received a certificate of the Agency, that (i) the Existing Agreement is no longer in effect and that all Payment Obligations owing to Bank of the West under the Existing Agreement have been paid in full and (ii) evidence that the Existing Note has been terminated.

(xxi) The Bank shall have received such other documents, certificates, opinions (including reliance letters), approvals (and if requested by the Bank, certified duplicates of executed copies of such approvals) and filings with respect to this Agreement, the Notes and the other Loan Documents as the Bank may reasonably request, in form and substance satisfactory to the Bank.

(b) *Conditions Precedent to Each Revolving Loan.* The obligation of the Bank to make a Revolving Loan on any date is subject to the following conditions precedent:

(i) The Agency shall have delivered to Bank a Request for Loan signed by an Authorized Representative not later than 8:00 a.m. (California time).

(ii) The representations and warranties of the Agency contained in Article VI hereof, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct on and as of the date of such Request for Loan, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date, and except that for purposes of this Section 2.3(b), the representations and warranties contained in Section 6.1(n) shall be deemed to refer to the most recent statements furnished pursuant to clause (a)(i) of Section 7.2.

(iii) No Default or Event of Default shall exist, or would result from such proposed Revolving Loan or from the application of the proceeds thereof.

(iv) After giving effect to any Revolving Loan, the aggregate principal amount of all Revolving Loans outstanding hereunder shall not exceed the Available Commitment.

(v) Such Revolving Loan shall not violate any order, judgment or decree of any court or authority of competent jurisdiction or any provision of law as then in effect.

(vi) The Bank shall not have received notice (either verbal or written) from the Agency, or Bond Counsel that any opinion delivered pursuant to Section 2.3(a) hereof may no longer be relied upon.

(vii) The Bank shall have received, in form and substance satisfactory to it, such other assurances, certificates, documents or consents related to the foregoing as the Bank reasonably may require.

Unless the Agency shall have otherwise previously advised the Bank in writing, delivery to the Bank of a Request for Loan shall be deemed to constitute a representation and warranty by the Agency that on the Effective Date and on the date of such Request for Loan and on the date of the proposed Revolving Loan each such condition is satisfied.

*Section 2.4. Loan Designations.* Prior to the LIBOR Termination Date, the Agency shall designate a Revolving Loan as one of the following: (i) a Taxable Revolving Loan borrowing or (ii) a Tax-Exempt Revolving Loan borrowing. On and after the LIBOR Termination Date, the Agency shall and may only designate a Revolving Loan as a Tax-Exempt SIFMA Rate Loan.

*Section 2.5. Fees.*

(a) *Commitment Fee.* The Agency agrees to pay to the Bank a nonrefundable annual fee (the “*Commitment Fee*”), payable quarterly in arrears on each Quarterly Payment Date and on the Commitment Termination Date, accruing at the Commitment Fee Rate on the Available Commitment in effect on each day during the preceding quarterly period. The Commitment Fee shall be calculated on the basis of 365-day year and actual days elapsed.

(b) *Revolving Loan Fees.* Upon each Revolving Loan made by the Bank hereunder, the Agency agrees to pay to the Bank an advance fee of \$250, payable without any requirement of notice or demand by the Bank on the day on which such Revolving Loan is made by the Bank; *provided, however,* that the Agency shall not be required to pay more than \$2,500 in advance fees during any calendar year.

(c) *Amendment, Consent or Waiver Fee.* Upon each amendment hereof, consent or waiver hereunder or under any Loan Document, the Agency shall pay or cause to be paid attorneys' fees and expenses, if any, incurred by the Bank in processing such amendment, consent or waiver.

*Section 2.6. Reduction and Termination.* (a) The Available Commitment shall be reduced from time to time as requested by the Agency within three (3) days of the Agency's written notice to the Bank requesting such reduction in the form of Exhibit E hereto; *provided,* that (i) each such reduction amount shall be in an amount equal to \$500,000 or an integral multiple of \$100,000 in excess thereof, and (ii) any reduction in the Available Commitment shall not be effective until the Bank delivers to the Agency a notice in the form attached hereto as Exhibit F reflecting such reduction.

(b) The Agency may at any time and at its sole option terminate the Commitment and reduce the Available Commitment to zero upon three (3) days' prior written notice to the Bank in the form of Exhibit E hereto; *provided,* that any termination of the Commitment and reduction of the Available Commitment to zero shall not be effective until the Bank delivers to the Agency a notice in the form attached hereto as Exhibit G reflecting such termination. As a condition to any such termination, the Agency shall pay or cause to be paid all Payment Obligations owed to the Bank.

(c) Notwithstanding any provision of the Agreement or any Revolving Loan to the contrary, the Agency agrees not to terminate or permanently reduce the Commitment prior to the first anniversary of the Effective Date, except upon the payment by the Agency to the Bank of the Termination Fee or a Reduction Fee, as described below;

(d) The Agency hereby agrees to pay to the Bank a Termination Fee in connection with the termination of the Commitment by the Agency as set forth in this paragraph and paragraph (e) below in an amount equal to the product of (A) the Commitment Fee Rate in effect on the date of termination, (B) the Available Commitment in effect on the date of termination, and (C) a fraction, the numerator of which is equal to the number of days from and including the date of such termination to and including the first anniversary of the Effective Date and the denominator of which is 360 (the "*Termination Fee*"), payable on the date the Commitment is terminated or replaced; and

(e) the Agency hereby agrees to pay to the Bank a reduction fee in connection with each and every permanent reduction of the Available Commitment of the Line of Credit by the Agency as set forth in paragraph (d) above in an amount equal to the product of (A) the Commitment Fee Rate in effect pursuant to paragraph (a) above on the date of such permanent reduction, (B) the difference between the Commitment Amount (without regard to any reductions thereof that may be reinstated pursuant to the terms of the Line of Credit) prior to such permanent reduction and

the Commitment Amount (without regard to any reductions thereof that may be reinstated pursuant to the terms of the Line of Credit) after such permanent reduction, and (C) a fraction, the numerator of which is equal to the number of days from and including the date of such permanent reduction to and including the first anniversary of the Effective Date and the denominator of which is 360 (the “*Reduction Fee*”), payable on the date the Commitment Amount of the Line of Credit is permanently reduced.

*Section 2.7. Extension of Stated Commitment Expiration Date.* The Agency may request an extension of the Stated Commitment Expiration Date in writing in the form of Exhibit C hereto not more than one hundred fifty (150) days prior to the then current Stated Commitment Expiration Date and not less than ninety (90) days prior to the then current Stated Commitment Expiration Date. The Bank will make reasonable efforts to respond to such request within sixty (60) days after receipt of such request, *provided* that promptly upon request thereof by the Bank to the Agency, the Bank receives all information necessary, in the Bank’s judgment, to permit the Bank to make an informed credit decision. If the Bank fails to definitively respond to such request within such sixty (60) day period, the Bank shall be deemed to have refused to grant the extension requested and the Agency may submit additional requests for extension to the Bank and such additional requests shall not be governed by the time periods set forth above in this Section 2.7. The Bank may, in its sole and absolute discretion, decide to accept or reject any such request for extension and no extension shall become effective unless the Bank shall have consented thereto in writing in the form of Exhibit D hereto or otherwise. The Bank’s consent, if granted, shall be conditioned upon the preparation, execution and delivery of documentation in form and substance satisfactory to the Bank.

### ARTICLE III

#### REVOLVING LOANS

*Section 3.1. Revolving Loans Evidenced by Notes.* The Revolving Loans will be evidenced by two (2) separate promissory notes: one promissory note will evidence Taxable Revolving Loans and the other will evidence Tax-Exempt Revolving Loans. The Taxable Revolving Loans shall be evidenced by a single promissory note of the Agency to the Bank in substantially the form set forth in Exhibit A-2 hereto (as amended or supplemented from time to time, the “*Taxable Note*”) to be issued on the Effective Date, payable to the Bank in a principal amount of \$15,000,000 (or, if less, the aggregate unpaid principal amount of all Revolving Loans made by the Bank from time to time hereunder) and otherwise duly completed. The Tax-Exempt Revolving Loans shall be evidenced by a single promissory note of the Agency to the Bank in substantially the form set forth in Exhibit A-1 hereto (as amended or supplemented from time to time, the “*Tax-Exempt Note*”) to be issued on the Effective Date, payable to the Bank in a principal amount of \$15,000,000 (or, if less, the aggregate unpaid principal amount of all Revolving Loans made by the Bank from time to time hereunder) and otherwise duly completed. All Revolving Loans made by the Bank and all payments and prepayments made on account of principal thereof shall be recorded by the Bank as set forth in Section 10.1 hereof. The Notes shall not be divisible or transferable except to a bank, financial institution or a qualified investor.

*Section 3.2. Interest on Revolving Loans.* Subject to Section 5.8 hereof, each Revolving Loan shall bear interest from the related Loan Date to the date the Bank as follows: (i) each Taxable Revolving Loan shall bear interest on the outstanding principal amount thereof from the applicable Loan Date at a rate per annum equal to the Taxable Floating Rate, (ii) each Tax-Exempt Revolving Loan shall bear interest on the outstanding principal amount thereof from the applicable Loan Date at a rate per annum equal to the Tax-Exempt Floating Rate and (iii) each Tax-Exempt SIFMA Rate Loan shall bear interest on the outstanding principal amount thereof for each SIFMA Accrual Period at a rate per annum equal to the SIFMA Index Rate for such SIFMA Accrual Period. Interest on each Revolving Loan shall be paid to the Bank quarterly in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

*Section 3.3. Repayment of Revolving Loans.* The principal of each Revolving Loan shall be repaid in full on the Revolving Loan Maturity Date. Immediately upon receipt thereof, the Agency covenants to apply all proceeds of the PWMGRP SRF Loan, all Proposition 1 Water Recycling Funding Program Construction Grant Monies and all Proposition 1 Storm Water Grant Monies, to prepay Revolving Loans outstanding under this Agreement pursuant to Section 3.4 hereof and such proceeds of the PWMGRP SRF Loan, all Proposition 1 Water Recycling Funding Program Construction Grant Monies and all Proposition 1 Storm Water Grant Monies may not be used for any other purpose.

*Section 3.4. Prepayment of Revolving Loans.* The Agency may prepay any Revolving Loan, in whole or in part, on any Business Day, without cost, penalty or premium, *provided* written notice is provided by the Agency to the Bank in the form of Exhibit I hereto not later than 8:00 a.m., California time; *provided further* that any Tax-Exempt SIFMA Rate Loans may only be prepaid on the last day of a SIFMA Accrual Period, or if such day is not a Business Day, the next succeeding Business Day. Each such notice of optional prepayment shall be irrevocable and shall bind the Agency to make such prepayment in accordance with such notice. Accrued interest on all prepayments of principal to the Prepayment Date shall be payable on the earlier of the Revolving Loan Maturity Date or the Quarterly Payment Date next following the Prepayment Date.

*Section 3.5. Indemnification for LIBOR Rate Costs.* During any period of time in which interest is accruing on any Revolving Loan on the basis of the LIBOR Rate, the Agency shall, upon the Bank's request, promptly pay to and reimburse the Bank for all costs incurred and payments made by the Bank by reason of any future assessment, reserve, deposit or similar requirement or any surcharge, tax or fee imposed upon the Bank or as a result of the Bank's compliance with any directive or requirement of any regulatory authority pertaining or relating to funds used by the Bank in quoting and determining the LIBOR Rate.

*Section 3.6. Inability to Determine Rates.* If the Bank determines that for any reason in connection with a request for a Revolving Loan that (i) Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount of such Revolving Loan, (ii) adequate and reasonable means do not exist for determining the LIBOR Rate for any given day with respect to a proposed Revolving Loan or in connection with an existing Revolving



Loan, including, without limitation, because the LIBOR Screen Rate is not available or published on a current basis and such circumstances are unlikely to be temporary, (iii) the LIBOR Rate (for any given day with respect to a proposed Revolving Loan does not adequately and fairly reflect the cost to the Bank of funding the Revolving Loan or (iv) the administrator of the LIBOR Screen Rate or a Governmental Authority having or purporting to have jurisdiction over the Bank has made a public statement identifying a specific date after which the LIBOR Rate or the LIBOR Screen Rate shall no longer be made available, or used for determining the interest rate of loans in Dollars; *provided* that, if at the time of such statement there is no successor administrator that is satisfactory to the Bank, that will continue to provide the LIBOR Rate after such specific date, the Bank will promptly so notify the Agency. Thereafter, the obligation of the Bank to make or maintain Revolving Loans shall be suspended. Upon receipt of such notice, the Agency may prepay all Revolving Loans immediately or, shall convert all Tax-Exempt Revolving Loans into Tax-Exempt SIFMA Rate Loans. Once any Tax-Exempt Revolving Loan is converted into a Tax-Exempt SIFMA Rate Loan it may not be further converted.

*Section 3.7. Illegality.* If the Bank determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for the Bank or the Bank's Office to make, maintain or fund any Revolving Loan whose interest is determined by reference to the LIBOR Rate, or to determine or charge interest rates based upon the LIBOR, or any Governmental Authority has imposed material restrictions on the authority of the Bank to purchase or sell, or to take deposits of, Dollars in the London interbank market in the case of LIBOR Rate, then, on notice thereof by the Bank to the Agency, any obligation of the Bank to make the Revolving Loans shall be suspended. Upon receipt of such notice, the Agency shall, upon demand from the Bank, if Tax-Exempt Revolving Loans are deemed unlawful, prepay all such affected Revolving Loans immediately or shall convert all affected Tax-Exempt Revolving Loans into Tax-Exempt SIFMA Rate Loans. Upon any such prepayment, the Agency shall also pay accrued interest on the amount so prepaid. Once any Tax-Exempt Revolving Loan is converted into a Tax-Exempt SIFMA Rate Loan it may not be further converted.

## ARTICLE IV

### SECURITY AND PLEDGE

*Section 4.1. Security and Pledge.* To secure the payment of all Payment Obligations, the Agency hereby pledges, grants and assigns in favor of the Bank: (i) a subordinate lien on the Net Revenues, subject only to the prior lien and security interest granted therein to secure the Senior Debt and the parity lien and security interest granted therein to secure the Subordinate Debt; (ii) a senior lien and security interest in all proceeds of the PWMGRP SRF Loan, (iii) a senior lien and security interest in all Proposition 1 Water Recycling Funding Program Construction Grant Monies, (iv) a senior lien and security interest in all Proposition 1 Storm Water Grant Monies and (v) a senior lien and security interest in any other Collateral not described in clauses (i)-(iv) above. No filing, registering, recording or publication of this Agreement is required to establish the pledge hereunder or to perfect, protect or maintain the lien created hereby on the Collateral. The pledge and lien hereby granted shall remain effective for so long as any Payment Obligations remain unpaid. No obligations of the Agency are entitled to the benefit of a prior lien and charge on any

portion of the Collateral other than Senior Debt entered into or issued or incurred under and in accordance with Section 8.2(d) hereof. No portion of the Collateral is subject to any lien or security interest granted by or contractual obligation incurred by the Agency other than any lien or security interest in the Net Revenues granted for the benefit of Net Revenue Debt entered into or issued or incurred under and in accordance with Section 8.2(e) hereof; *provided* that the Gross Revenues may be applied for the purposes set forth in Section 7.12 hereof.

## ARTICLE V

### LIABILITY, INDEMNITY AND PAYMENT

*Section 5.1. Liability of the Agency.* The Agency and the Bank agree that the obligation of the Agency to pay the Payment Obligations are contractual obligations of the Agency payable solely from the Collateral, shall not constitute a full faith and credit general obligation of the Agency and shall not be affected by, and the Bank shall not be responsible for, among other things, (i) the validity, genuineness or enforceability of this Agreement, the Notes or documents, notices or endorsements relating thereto (even if this Agreement or any documents, notices endorsements relating thereto should in fact prove to be in any and all respects invalid, fraudulent or forged), (ii) the use to which the amounts disbursed by the Bank may be put, or (iii) any other circumstances or happenings whatsoever, whether or not similar to any of the foregoing.

*Section 5.2. Indemnification by the Agency.* (a) To the fullest extent permitted by law, the Agency agrees to indemnify and hold harmless the Bank, the Participants and their respective officers, directors, employees, representatives and agents (collectively, the “*Indemnified Parties*” and, individually, an “*Indemnified Party*”), from and against any and all claims, damages, penalties, actions, judgments, suits, disbursements, losses, liabilities, costs or expenses whatsoever (including reasonable attorneys’ fees) which any of them may incur (or which may be claimed against any of them by any Person) as a result of, or arising out of, or in any way related to, or by reason of or in connection with (i) the execution and delivery or transfer of, or payment or failure to pay under this Agreement or the Notes, (ii) the application of the proceeds of Revolving Loans to pay the Project Costs, (iii) any breach by the Agency of any warranty, covenant, term or condition in, or the occurrence of any default under any of the Loan Documents, together with all reasonable expenses resulting from the compromise or defense of any claims or liabilities arising as a result of any such breach or default, (iv) any action or proceeding relating to a court order, injunction or other process or decree restraining or seeking to restrain the Bank from paying any amount under this Agreement (other than actions or proceedings instituted by or on behalf of the Bank), (v) any investigation, litigation or other proceeding (whether or not the Bank or any Participant is a party thereto) related to the entering into and/or each performance of any of the Loan Documents or the use of the proceeds of any Revolving Loan under this Agreement, or (vi)(A) any condition of the Wastewater System, including without limitation, any environmental condition, (B) the construction, reconstruction, improvement, use, occupancy, conduct or management of or any work or anything whatsoever done or omitted to be done in or about the Wastewater System or (C) any accident, injury or damage whatsoever to any person occurring in or about the Wastewater System; *provided*, that the Agency shall not be required to indemnify the Bank for any claims, damages, penalties, actions, judgments, suits, disbursements, losses,

liabilities, costs or expenses to the extent, but only to the extent, caused by (i) the willful misconduct or gross negligence of the Bank in determining whether a Request for Loan presented hereunder complied with the terms hereof, or (ii) the Bank's failure to pay under any requested Revolving Loan after the presentation to it by the Agency of a Request for Loan strictly complying with the terms and conditions hereof.

(b) The obligations of the Agency hereunder shall include, but not be limited to (i) the burden and expense of defending all claims, suits and administrative proceedings (with counsel chosen by the Agency and reasonably approved by the Indemnified Parties), even if such claims, suits or proceedings are groundless, false or fraudulent, (ii) conducting all negotiations of any description, and (iii) paying and discharging, when and as the same become due, any and all claims, damages, penalties, actions, judgments, suits, disbursements, losses, liabilities, costs or expenses due from or rendered against the Indemnified Parties.

(c) Nothing in this Section 5.2 is intended to limit the obligations of the Agency contained in Section 5.7 hereof.

(d) The obligations of the Agency under this Section 5.2 shall survive the termination of the Commitment and the payment in full of all Payment Obligations.

*Section 5.3. Increased Costs; Reserves on Loans.*

(a) *Increased Costs Generally.* If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, liquidity ratio, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, the Bank (except any reserve requirement contemplated by Section 5.3(d) below);

(ii) subject the Bank to any taxes on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on the Bank or the London interbank market any other condition, cost or expense affecting this Agreement or any Revolving Loans made by the Bank;

and the result of any of the foregoing shall be to increase the cost to the Bank of making, converting to, continuing or maintaining any Revolving Loan (or of maintaining its obligation to make any such Revolving Loan), or to reduce the amount of any sum received or receivable by the Bank hereunder (whether of principal, interest or any other amount) then, upon request of the Bank, the Agency will pay to the Bank, such additional amount or amounts as will compensate the Bank, for such additional costs incurred or reduction suffered.

(b) *Capital Requirements.* If the Bank determines that any Change in Law affecting the Bank or the Bank's Office or the Bank's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on the Bank's capital or

on the capital of the Bank's holding company, if any, as a consequence of this Agreement, the Commitment or the Revolving Loans made by the Bank, to a level below that which the Bank or the Bank's holding company could have achieved but for such Change in Law (taking into consideration the Bank's policies and the policies of the Bank's holding company with respect to capital adequacy), then from time to time the Agency will pay to the Bank, as the case may be, such additional amount or amounts as will compensate Bank or the Bank's holding company for any such reduction suffered.

(c) A certificate of the Bank setting forth the amount or amounts necessary to compensate the Bank or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Agency shall be conclusive absent manifest error. The Agency shall pay the Bank the amount shown as due on any such certificate within thirty (30) days after receipt thereof.

(d) *Delay in Requests.* Failure or delay on the part of the Bank to demand compensation pursuant to the foregoing provisions of this Section 5.3 shall not constitute a waiver of the Bank's right to demand such compensation, *provided* that the Agency shall not be required to compensate the Bank pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine (9) months prior to the date that the Bank notifies the Agency of the Change in Law giving rise to such increased costs or reductions and of the Bank's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine (9) month period referred to above shall be extended to include the period of retroactive effect thereof).

*Section 5.4. Calculation of Interest and Fees; Maximum Interest Rate; Default Rate.*

(a) Interest payable hereunder or under the Notes or any other Loan Document shall be calculated on the basis of a year of three hundred sixty (360) days based on the actual number of days elapsed. The Commitment Fee payable hereunder shall be calculated on the basis of a year of three hundred sixty-five (365) days based on the actual number of days elapsed. Any change in the Taxable Floating Rate, Tax-Exempt Floating Rate, SIFMA Index Rate or the Default Rate resulting from a change in the LIBOR Rate, the Federal Funds Rate, the Prime Rate or the SIFMA Index Rate shall become effective as of the opening of business on the day on which such change in the LIBOR Rate, the Federal Funds Rate, the Prime Rate or the SIFMA Index Rate shall become effective. Each determination by the Bank of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error. All fees hereunder shall be fully earned on the date when due and, once paid, shall be non-refundable. If any of the Taxable Floating Rate, Tax-Exempt Floating Rate or SIFMA Index Rate becomes equal to the Default Rate pursuant to their definitions hereunder, the Agency shall also pay all amounts due hereunder due to such change in the interest rate. The Bank shall promptly notify the Agency of the Taxable Floating Rate, Tax-Exempt Floating Rate and SIFMA Index Rate promptly following each Loan Date; *provided, however*, that the failure by the Bank to provide notice of the Taxable Floating Rate, Tax-Exempt Floating Rate and SIFMA Index Rate shall not relieve the Agency of its obligations arising under or related to this Agreement, the Notes or the other Loan Documents.

(b) Any and all amounts remaining unpaid when due under this Agreement, the Notes or any other Loan Document shall bear interest at the Default Rate until repaid and shall be payable

upon demand. Any such amounts which constitute interest remaining unpaid when due shall be added to principal, and such interest shall, in turn, bear interest at the Default Rate until repaid and shall be payable upon demand. Any sum payable by the Agency to the Bank hereunder or under the Notes or any other Loan Document upon the occurrence or during the continuance of any Event of Default hereunder shall bear interest at the Default Rate.

(c) To the extent permitted by law, in the event that a rate of interest required to be paid by the Agency under this Agreement, the Notes or any other Loan Document shall exceed a maximum rate established by law or by the Resolution, any subsequent reduction in the rate of interest required to be paid by the Agency hereunder or under the Notes or any other Loan Document will not reduce the rate of interest below the maximum rate established by law until the total amount of interest accrued equals the amount of interest which would have accrued if the rate of interest required hereunder or under the Notes or any other Loan Document (without giving effect to this paragraph) had at all times been in effect. On the Revolving Loan Maturity Date, in consideration for the limitation of the rate of interest otherwise payable under this Agreement, the Notes or any other Loan Document, the Agency shall pay to the Bank a fee equal to the amount of all such unpaid interest which would have accrued if the rate of interest required hereunder or under the Notes or any other Loan Document (without giving effect to this paragraph) had at all times been in effect.

(d) All amounts paid by the Agency pursuant to this Agreement, the Notes or any other Loan Document shall be non-refundable and shall be paid in lawful money of the United States of America in immediately available funds.

*Section 5.5. Form and Method of Payments; Late Payment; Net Payments.*

(a) *Form and Method of Payments.* All payments made to the Bank under this Agreement, the Notes or any other Loan Document shall be made not later than 4:00 p.m. (California time) without setoff, counterclaim or other defense by wire transfer in lawful currency of the United States and in immediately available funds to the Bank by the wire instructions set forth in Section 10.3 (or at such other bank, address or account as the Bank may designate in writing from time to time to the Agency). Any payment received by the Bank later than 4:00 p.m. (California time) shall be deemed to be made on the next succeeding Business Day. If any payment required to be made by the Agency hereunder or under the Notes or any other Loan Document becomes due and payable on a day other than a Business Day, the due date thereof shall be extended to the next succeeding Business Day and interest thereon shall be payable at the applicable rate during such extension.

(b) *Late Payment.* In addition to any other rights the Bank may have hereunder or under the Notes or any other Loan Document, if any payment of principal or interest or portion thereof, under this Agreement, the Notes or any other Loan Document is not paid within fifteen (15) days of when due, a late payment charge equal to five percent (5%) of such past due payment may be assessed and shall be immediately payable.

(c) *Net Payments.* All such payments will be made free and clear of, and without deduction or withholding for, any present or future taxes, levies, imposts, duties, fees, assessments

or other charges of whatever nature now or hereafter imposed by any jurisdiction or by any political subdivision or taxing authority thereof or therein (but excluding any tax imposed on the overall net income of the Bank or a Participant pursuant to the laws of the jurisdiction (or any political subdivision or taxing authority thereof or therein) in which the principal office of the Bank or such Participant is located) and all interest, penalties or similar liabilities with respect thereto (collectively, “Taxes”); *provided, however*, that the Agency shall have no liability with respect to any Taxes which are imposed on the Bank or any Participant that is a foreign banking institution pursuant to the laws of the jurisdiction (or any political subdivision or taxing authority thereof or therein) in which the principal office of the Bank or such Participant, as the case may be, is located, unless (i) the Bank or such Participant, as the case may be, is entitled to benefits of an income tax treaty with the United States that provides for an exemption from United States withholding tax on interest and other amounts payable to the Bank or such Participant, as the case may be, pursuant to the terms of this Agreement, the Notes or any other Loan Document, or (ii) all interest and other amounts payable to the Bank or such Participant, as the case may be, pursuant to the terms of this Agreement, the Notes or any other Loan Document will be effectively connected with the conduct by the Bank or such Participant, as the case may be, of a trade or business within the United States. If any Taxes are so levied or imposed, the Agency agrees to pay the full amount of such Taxes and such additional amounts as may be necessary so that every payment of all amounts due hereunder or under the Notes or the other Loan Documents, after withholding or deduction for or on account of any Taxes, will not be less than the amount provided for herein or in the Notes or the other Loan Documents. The Agency will deliver to the Bank within forty-five (45) days after the date the payment of any Taxes is due pursuant to applicable law certified copies of tax receipts evidencing such payment by the Agency. To the extent permitted by law, the Agency will indemnify and hold harmless the Bank and each Participant, and reimburse the Bank and each Participant upon written request, for the amount of any Taxes so levied or imposed and paid by the Bank or such Participant.

*Section 5.6. Liability of the Bank.* Neither the Bank nor any of its officers, directors, employees, representatives or agents shall be liable or responsible for (i) the use which may be made of any Revolving Loans or this Agreement or for any acts, omissions, errors, interruptions, delays in transmission, dispatch or delivery of any message or advice, however transmitted, of the Bank in connection with this Agreement or the Notes, (ii) any action, inaction or omission which may be taken by the Bank in connection with this Agreement or the Notes, (iii) the validity, sufficiency or genuineness of documents, or of any endorsements thereon, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged, (iv) payment by the Bank against presentation of documents which do not comply with the terms of this Agreement or a Request for Loan, including failure of any documents to bear any reference or adequate reference to this Agreement, or (v) any other circumstances whatsoever in making or failing to make payment under this Agreement or pursuant to a Request for Loan, except for acts or events described in the immediately preceding clauses (i) through (v), to the extent, but only to the extent, of any direct, as opposed to special, indirect, consequential or punitive, damages (the right to receive special, indirect, consequential or punitive damages being hereby waived) suffered by it which the Agency proves were caused by (y) the Bank’s willful misconduct or gross negligence in determining whether documents presented under this Agreement comply with the terms of this Agreement or (z) the Bank’s failure to pay hereunder after the presentation to it of a Request for Loan strictly complying with the terms and conditions of this Agreement. The Agency further agrees that any action taken or omitted by the Bank under or in connection with this

Agreement or the related draft or documents, if done without gross negligence, shall be effective against the Agency as to the rights, duties and obligations of the Bank and shall not place the Bank under any liability to the Agency. In furtherance and not in limitation of the foregoing, the Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary.

*Section 5.7. Obligations Unconditional.* The Agency's obligation to pay the Payment Obligations and to perform and observe all of its other obligations under this Agreement, the Notes or any other Loan Document shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment which the Agency may have against the Bank, any Participant, or any other Person, including, without limitation, any defense based on the failure of any nonapplication or misapplication of the proceeds of Revolving Loans hereunder, and irrespective of the legality, validity, regularity or enforceability of this Agreement, the Notes or any or all other Loan Documents, and notwithstanding any amendment or waiver of (other than an amendment or waiver signed by the Bank explicitly reciting the release or discharge of any such obligation), or any consent to, or departure from, this Agreement, the Notes or any or all other Loan Documents or any exchange, release, or nonperfection of any collateral securing the obligations of the Agency hereunder and any other circumstances or happening whatsoever, whether or not similar to any of the foregoing; *provided, however*, that nothing contained in this Section 5.7 shall abrogate or otherwise affect the rights of the Agency pursuant to Section 5.2 hereof.

*Section 5.8. Taxability.* In the event a Determination of Taxability occurs, (i) the Agency hereby agrees to pay to the Bank or any Participant on demand therefor any interest, penalties or charges owed by the Bank or the Participant, as applicable, as a result of interest on the Tax-Exempt Revolving Loans becoming includable in the gross income of the Bank or such Participant, as applicable, together with any and all reasonable attorneys' fees, court costs, or other out-of-pocket costs incurred by the Bank or such Participant, as applicable, in connection therewith and pursuant to Section 2.4 hereof, and (ii) any Tax-Exempt Revolving Loans affected thereby shall automatically convert to Taxable Revolving Loans. The obligations of the Agency under this Section 5.8 shall survive the termination of the Commitment and this Agreement.

## ARTICLE VI

### REPRESENTATIONS AND WARRANTIES

*Section 6.1. Representations and Warranties of the Agency.* To induce the Bank to enter into this Agreement, the Agency hereby represents and warrants to the Bank as of the Effective Date and as of the date of each Request for Loan and as of the date of each Revolving Loan, as follows:

(a) *Organization Existence.* The Agency is duly organized and validly existing as a joint powers agency duly organized, validly existing and in good standing under and pursuant to the Act and the laws of the State.

(b) *Power and Authority.* The Agency has and had at the time of adoption, execution, delivery, issuance, sale or performance full power, right and authority to (i) execute, deliver and perform its obligations hereunder and under the Notes and each of the other Loan Documents, and any and all instruments and documents required to be executed, adopted or delivered pursuant to or in connection herewith or therewith, (ii) pay the Payment Obligations at the times and in the manner set forth herein, (iii) own and operate the Wastewater System, and (iv) perform each and all of the matters and things herein and therein provided for and the Agency has complied with the laws of the State in, all matters relating to such execution, delivery and performance.

(c) *Due Authorization.* This Agreement, the Notes and each of the other Loan Documents have been duly authorized, executed, issued and delivered and constitute the legal, valid and binding obligations of the Agency enforceable in accordance with their terms.

(d) *Necessary Actions Taken.* The Agency has taken all actions necessary to be taken by it (i) for the adoption, execution, adoption and delivery by the Agency of any and all such other instruments and the taking of all such other actions on the part of the Agency as may be necessary or appropriate for the effectuation and consummation of the transactions on the part of the Agency contemplated by the Loan Documents or in connection herewith or therewith and (ii) to authorize or approve, as appropriate, the execution or adoption, issuance and delivery of, and the performance of its obligations under and the transactions contemplated by, each of the Loan Documents and the payment of the Payment Obligations at the times and in the manner set forth herein.

(e) *Binding Effect.* The Resolution has been duly adopted and is in full force and effect. This Agreement, the Notes and each of the other Loan Documents has been duly authorized, executed and delivered by the Agency and each constitutes a legal, valid and legally binding obligation of the Agency, which obligation is enforceable in accordance with its terms, and the payment of the Payment Obligations is and shall continue to be a contractual obligation of the Agency for which the Collateral is and shall continue to be pledged as provided in the Loan Documents, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency, debt adjustment, reorganization, moratorium or similar laws or equitable principles relating to or limiting creditors' rights generally or as to the availability of any particular remedy. No other Governmental Approval or other action by, and notice to or filing with, any Governmental Authority, and no election or referendum of or by any Person, organization or public body whatsoever required in connection with any of the foregoing actions or the performance by the Agency of its obligations under the Loan Documents that has not been obtained. There are no provisions of State law which would allow, as of the date hereof or any date subsequent hereto, any public vote or referendum, the results of which could invalidate this Agreement, the Notes or any other Loan Document or invalidate, limit or condition the obligation of the Agency to pay the Payment Obligations to the Bank or any other obligation or pledge undertaken hereunder or in connection with the transactions contemplated by the Loan Documents.



(f) *No Contravention.* The adoption of the Resolution and the execution, delivery and performance of this Agreement, the Notes and each of the other Loan Documents, and compliance with the provisions hereof and thereof, do not and will not (i) conflict with or result in a violation of any Laws, including any debt limitations or other restrictions or conditions on the debt-issuing power of the Agency, (ii) contravene the Agency's authorizing legislation, (iii) require any consent or approval of any creditor of the Agency, (iv) conflict with or result in a violation of, or breach of, or constitute a default under, any law, judgment, order, decree or administrative regulation or any of the terms, conditions or provisions of the PWMGRP SRF Loan/Proposition 1 Water Recycling Funding Program Construction Grant Documents, the Proposition 1 Storm Water Grant Documents or any ordinance, judgment, decree, contract, loan agreement, note, bond, resolution, indenture, mortgage, deed of trust or other agreement or instrument to which the Agency is a party or by which it or any property of the Agency is bound and (v) do not and will not result in the imposition or creation of any Lien upon or invalidate or adversely affect in any way the Collateral. The Agency has not received any notice, not subsequently withdrawn, given in accordance with the remedy provisions of any bond resolution or ordinance, trust indenture, guarantee or agreement or state law pertaining to bonds or notes, of any default or event of default of the Agency which has not been cured.

(g) *Compliance with Law; Employee Benefit Plan Compliance.* The Agency is in compliance with all Laws (including, without limitation, Regulations T, U or X of the FRB, or any successor regulations), except for such noncompliance that singly or in the aggregate, has not caused or is not reasonably expected to cause a Material Adverse Effect. The current collection of the Net Revenues, the proceeds of the PWMGRP SRF Loan, all Proposition 1 Water Recycling Funding Program Construction Grant Monies and all Proposition 1 Storm Water Grant Monies and the other Collateral and the management of the Wastewater System and the accounting and recordkeeping therefor are in material compliance with all applicable state and federal laws and all applicable resolutions, ordinances and rules of the Agency. The Agency is in material compliance with the terms of the employee benefit plans in which the Agency or any of its employees participate. Neither the Agency nor any employee benefit plan maintained by the Agency is subject to the Employee Retirement Income Security Act of 1974, as amended.

(h) *Compliance; No Breach.* The Agency is in compliance with the terms and conditions of each of the Loan Documents, and no breach of the terms hereof or thereof has occurred and is continuing, and no Default or Event of Default has occurred and is continuing.

(i) *No Default.* No default by the Agency has occurred and is continuing in the payment of the principal of or premium, if any, or interest on any bond, note or other evidence of indebtedness issued by the Agency with a lien on any portion of the Collateral. No bankruptcy, insolvency or other similar proceedings pertaining to the Agency or any agency or instrumentality of the Agency are pending or contemplated. The Agency is not in default under any other contract, loan agreement, note, bond, resolution, indenture, mortgage, deed of trust or other agreement or instrument to which the Agency is a party or by which it or any property of the Agency is bound, which default could have a Material

Adverse Effect. The Agency is in compliance with the terms and conditions of the PWMGRP SRF Loan/Proposition 1 Water Recycling Funding Program Construction Grant Documents, the Proposition 1 Storm Water Grant Documents and all Net Revenue Debt, and no breach of the terms hereof or thereof has occurred and is continuing, and no default or event of default under the PWMGRP SRF Loan/Proposition 1 Water Recycling Funding Program Construction Grant Documents, the Proposition 1 Storm Water Grant Documents or any Net Revenue Debt has occurred and is continuing.

(j) *No Public Vote or Referendum; Pending Legislation and Decisions.* To the best knowledge of the Agency, there is no public vote or referendum pending, proposed or concluded, the results of which could in any way adversely affect the transactions contemplated by the Loan Documents, or the validity or enforceability of the Loan Documents. To the knowledge of the Agency, there is no amendment, or proposed amendment to the Constitution or any law of the State or any administrative interpretation of the Constitution or any law of the State, or any legislation that has passed either house of the legislature of the State, or any judicial decision interpreting any of the foregoing, the effect of which could in any way adversely affect the transactions contemplated by the Loan Documents, or the validity or enforceability of the Loan Documents, or could otherwise reasonably be expected to result in a Material Adverse Effect.

(k) *No Immunity.* The Agency is not entitled to raise the defense of sovereign or governmental immunity in connection with any legal proceedings to enforce or collect upon this Agreement, the other Loan Documents or the transactions contemplated hereby or thereby, including the payment of the principal of and interest on the Revolving Loans or the payment of the other Payment Obligations.

(l) *Litigation.* There is no action, suit, inquiry, investigation or proceeding at law or in equity pending, or to the best knowledge of the Agency, threatened, against or affecting the Agency or the Wastewater System before any court, governmental agency, authority, arbitrator or administrative or governmental body which (i) could result in any Material Adverse Effect, (ii) which in any manner draws into question the validity or enforceability of this Agreement, the Notes or any other Loan Document, the pledge of the Collateral or the priority of any lien in favor of the Bank, (iii) which in any way affects the existence, organization or powers of the Agency or any elected official thereof to execute and deliver any of this Agreement, the Notes or the other Loan Documents or perform the obligations thereunder or contemplated thereby, (iv) affects the title of any official of the Agency to such Person's office, (v) seeks to restrain or enjoin the collection or the pledge of the Collateral to pay the Payment Obligations at the times and in the manner set forth in the Loan Documents, (vi) in any way contests or affects the validity or enforceability of any of this Agreement, the Notes or the other Loan Documents, (vii) contests in any way the powers or authority of the Agency with respect to any of this Agreement, the Notes or the other Loan Documents, or (viii) which could materially adversely affect the ability of the Agency to comply with its obligations under or in respect of any of this Agreement, the Notes or the other Loan Documents or in connection with the transactions contemplated hereby or thereby.

(m) *Disclosure.* Neither the Loan Documents nor any other document, certificate or statements (including the unaudited financial statements, budgets, projections and cash flows) of the Agency and the Wastewater System furnished to the Bank by or on behalf of the Agency in connection with the transactions contemplated hereby, or thereby contains any untrue statement of any material fact or omits to state any material fact necessary so as to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading.

(n) *Financial Information.* The Agency has delivered to the Bank a copy of the audited financial statements for the Agency and the Wastewater System for the most recently completed Fiscal Year. These together with related notes, fairly present the condition (financial or otherwise), results of operations or projections of revenues of the Wastewater System as of the date and for the periods therein set forth. All such financial statements have been prepared in accordance with Generally Accepted Accounting Principles for government entities consistently applied. There has been no change which would have a Material Adverse Effect since the last day of the Fiscal Year set forth in such financial statements. The Agency has no material contingent liabilities or other material contracts or commitments which are not reflected in such financial statements or in the notes thereto. The annual operating budget of the Wastewater System and any supplements thereto for the current Fiscal Year, a true and complete copy of which has been delivered to the Bank, fairly presents the anticipated income and expenses of the Wastewater System and the Net Revenues, the proceeds of the PWMGRP SRF Loan, all Proposition 1 Water Recycling Funding Program Construction Grant Monies and all Proposition 1 Storm Water Grant Monies and the other Collateral for such Fiscal Year.

(o) *Official Signatures.* The Authorized Representative, on behalf of the Agency, has full power and authority to execute, deliver and perform under each of the Loan Documents. Any agreement, certificate or request signed by or on behalf of any Authorized Representative and delivered to the Bank shall be deemed a representation and warranty by the Agency to the Bank as to the truth, accuracy and completeness of the statements made by the Agency therein.

(p) *Incorporation of Representations and Warranties by Reference.* The Agency hereby makes to the Bank the same representations and warranties made by the Agency in each Loan Document, which representations and warranties, as well as the related defined terms contained therein, are hereby incorporated by reference for the benefit of the Bank with the same effect as if each and every such representation and warranty and defined term were set forth herein in its entirety. No amendment to or waiver of such representations and warranties or defined terms made pursuant to any Loan Document shall be effective to amend such representations and warranties and defined terms as incorporated by reference herein without the prior written consent of the Bank.

(q) *Swap Contracts.* The Agency has not entered into any Swap Contract under which a termination payment would be required to be paid from any portion of the Net Revenues on basis senior to or on a parity with the lien on the Net Revenues securing the Payment Obligations. The Agency has not entered into any Swap Contract under which a

termination payment would be required to be paid from any portion of the proceeds of the PWMGRP SRF Loan, any Proposition 1 Water Recycling Funding Program Construction Grant Monies or any Proposition 1 Storm Water Grant Monies.

(r) *Insurance.* The Agency currently maintains insurance with respect to the Wastewater System of such type and in such amounts or in excess of such amounts as are customarily carried by, and insures against such risks as are customarily insured against by, public agencies with similar public wastewater collection treatment and disposal systems. The Agency maintains with responsible insurers all such insurance on the Wastewater System required by Section 7.13 hereof.

(s) *Usury.* The terms of this Agreement, the Notes and the other Loan Documents regarding the calculation and payment of interest and fees do not violate any applicable usury laws.

(t) *Security.* The Payment Obligations are payable from and secured by a valid pledge of and subordinate Lien on the Net Revenues and valid pledge of and senior Lien on the other Collateral as set forth herein. No filing, registering, recording or publication of this Agreement is required to establish the pledge hereunder or to perfect, protect or maintain the Lien created hereby on the Collateral. No obligations of the Agency are entitled to the benefit of a prior Lien on any portion of the Collateral other than Senior Debt entered into or issued or incurred under and in accordance with Section 8.2 hereof. No portion of the Collateral is subject to any Lien granted by or contractual obligation incurred by the Agency other than any Lien in the Net Revenues granted for the benefit of Net Revenue Debt entered into or issued or incurred under and in accordance with Section 8.2 hereof; *provided* that the Gross Revenues may be applied for the purposes set forth in Section 7.12 hereof.

(u) *Investment Policy.* The Agency has delivered to the Bank a true and complete copy of its investment policy. All investments of the Agency have been and will be made substantially in accordance with such investment policy. Only the Agency may amend, rescind or otherwise modify the Agency's investment policy.

(v) *Wastewater System.* The Agency has maintained the Wastewater System in good working order and repair, and there have been no changes to and no event has occurred which has had, or may result in, a Material Adverse Effect.

(w) *Environmental Matters.* In the ordinary course of its business, the Agency conducts an ongoing review of Environmental Laws on the business, operations and properties of the Agency, in the course of which it identifies and evaluates associated liabilities and costs (including, without limitation, any capital or operating expenditures required for cleanup or closure of properties presently or previously owned or operated, any capital or operating expenditures required to achieve or maintain compliance with environmental protection standards imposed by law or as a condition of any license, permit or contract, any related constraints on operating activities, including any periodic or permanent shutdown of any facility or reduction in the level of or change in the nature of

operations conducted thereat and any actual or potential liabilities to third parties, including employees, and any related costs and expenses). On the basis of such review the Agency has reasonably concluded that Environmental Laws are unlikely to have a Material Adverse Effect.

(x) *OFAC*. Neither the Agency, nor, to the knowledge of the Agency, any Related Party, (a) is currently the subject of any Sanctions, (b) is located, organized or residing in any Designated Jurisdiction, or (c) is or has been (within the previous five (5) years) engaged in any transaction with any Person who is now or was then the subject of Sanctions or who is located, organized or residing in any Designated Jurisdiction. To the best knowledge of the Agency, after due inquiry, the proceeds from the Revolving Loans or the transaction contemplated by this Agreement have not been used, directly or indirectly, to lend, contribute, provide or otherwise be made available to fund any activity or business in any Designated Jurisdiction or to fund any activity or business of any Person located, organized or residing in any Designated Jurisdiction or who is the subject of any Sanctions, or in any other manner that will result in any violation by any Person (including the Bank) of Sanctions.

## ARTICLE VII

### AFFIRMATIVE COVENANTS OF THE AGENCY

So long as the Commitment is outstanding and until all Payment Obligations shall have been paid in full, the Agency hereby covenants and agrees that, unless the Bank shall otherwise consent in writing:

*Section 7.1. Maintenance of Existence.* The Agency (a) shall maintain its existence as a joint powers agency duly organized and existing under and pursuant to the Act and the laws of the State and its rights, franchises and privileges material to the operation of the Wastewater System and (b) shall not liquidate or dissolve, or sell or lease or otherwise transfer or dispose of all or any substantial part of its property, assets or business, or combine, merge or consolidate with or into any other entity or change the use of facilities or assets that generate Net Revenues.

*Section 7.2. Reports, Certificates and Other Information.* The Agency shall furnish or cause to be furnished to the Bank copies of:

(a) (i) As soon as available, and in any event within one hundred eighty (180) days after the close of each Fiscal Year of the Agency, the complete audited financial statements of the Agency and the Wastewater System including the balance sheet as of the end of such Fiscal Year and the related statements of revenues, expenses and cash flows and changes in fund balance for such Fiscal Year, setting forth in each case in comparative form the corresponding figures for the preceding Fiscal Year all in reasonable detail, certified and prepared by an independent certified public accountant (acceptable to the Bank) in accordance with GAAP, consistently applied, together with a certificate of an Authorized Representative to the effect that no Default or Event of Default has occurred

and is continuing, and certifying as to compliance with the covenants set forth in Sections 7.15 and 8.2 hereof and including a calculation showing the Agency's compliance with Section 7.15 hereof for such Fiscal Year;

(ii) in connection with the financial statements required to be delivered by the Agency pursuant to Section 7.2(a)(i) above, a Compliance Certificate signed by an Authorized Representative stating that no Event of Default or Default has occurred, or if such Event of Default or Default has occurred, specifying the nature of such Event of Default or Default, the period of its existence, the nature and status thereof and any remedial steps taken or proposed to correct such Event of Default or Default;

(b) As soon as available for each Fiscal Year, and in any event no later than sixty (60) days following the commencement of each Fiscal Year, a copy of a balanced annual operating budget for the Agency and the Wastewater System for such Fiscal Year and a certificate of an Authorized Representative to the effect that such annual operating budget includes all amounts reasonably anticipated to be necessary to make all payments in respect of the Payment Obligations due in such Fiscal Year;

(c) As soon as available, any disclosure documents distributed in connection with the original issuance or incurrence of any Net Revenue Debt;

(d) Promptly upon obtaining knowledge of any Default or Event of Default, or notice thereof, and within five (5) days thereafter, a certificate signed by an Authorized Representative specifying in reasonable detail the nature and period of existence thereof and what action the Agency has taken or proposes to take with respect thereto;

(e) As soon as practicable, written notice to the Bank of all litigation served against the Agency and all proceedings before any court or governmental authority which, in each case, directly or indirectly relates to the enforceability of this Agreement, the Notes or any of the other Loan Documents or could have a Material Adverse Effect and promptly upon obtaining knowledge thereof, written notice to the Bank of the occurrence of any other event which could have a Material Adverse Effect;

(f) As soon as available, written notice to the Bank of all changes to the Agency's investment policy or any governing document that sets forth the terms of any Net Revenue Debt (including any Net Revenue Debt Issuing Document);

(g) Copies of any filings (including annual reports and notice of events described in the United States Securities and Exchange Commission Rule 15c2-12(b)(5)(i)(C), if any) the Agency files in the normal course of affairs with any nationally recognized municipal securities repository with respect to any Net Revenue Debt pursuant to any continuing disclosure agreement;

(h) Promptly after the adoption thereof and to the extent the Bank is not required to receive and make notice of the same, copies of any amendments to the Loan Documents or a waiver to any provisions of the same.

(i) Such other information regarding the affairs and condition of the Agency or the Wastewater System as the Bank may from time to time reasonably request.

*Section 7.3. Maintenance of Books and Records.* The Agency shall keep proper books of record and account in which full, true and correct entries in accordance with the Agency's budget basis accounting principles and reporting practices shall be made of all dealings or transactions in relation to its activities.

*Section 7.4. Access to Books and Records.* To the extent permitted by law, the Agency shall permit any Person designated by the Bank to visit any of the offices of the Agency to examine the books and financial records, including minutes of meetings of any relevant governmental committees or agencies, and make copies thereof or extracts therefrom, and to discuss the affairs, finances and accounts of the Agency with its principal officials, all at such reasonable times and as often as the Bank may reasonably request.

*Section 7.5. Compliance with Documents.* The Agency shall perform and comply with each and every covenant and agreement required to be performed or observed by it herein and in the Notes and in each of the other Loan Documents, which provisions, as well as related defined terms contained therein, are hereby incorporated by reference herein with the same effect as if each and every such provision were set forth herein in its entirety all of which shall be deemed to be made for the benefit of the Bank and shall be enforceable against the Agency. To the extent that any such incorporated provision permits the Agency or any other party to waive compliance with such provision or requires that a document, opinion or other instrument or any event or condition be acceptable or satisfactory to the Agency or any other party, for purposes of this Agreement, such provision shall be complied with only if it is specifically waived by the Bank in writing and such document, opinion or other instrument and such event or condition shall be acceptable or satisfactory only if it is acceptable or satisfactory to the Bank which shall only be evidenced by the Bank's written approval of the same. No termination or amendment to such covenants and agreements or defined terms or release of the Agency with respect thereto made pursuant to the Loan Documents shall be effective to terminate or amend such covenants and agreements and defined terms or release of the Agency with respect thereto as incorporated by reference herein without the prior written consent of the Bank. Notwithstanding any termination or expiration of any such Loan Document, the Agency shall continue to observe the covenants therein contained for the benefit of the Bank until the termination of this Agreement. All such incorporated covenants shall be in addition to the express covenants contained herein and shall not be limited by the express covenants contained herein nor shall such incorporated covenants be a limitation on the express covenants contained herein.

*Section 7.6. Environmental Compliance.* The Agency shall comply with all Environmental Laws applicable to the construction, ownership or use of the Wastewater System and shall cause, to the extent possible, its tenants and other Persons occupying or using its facilities to comply with such Environmental Laws, shall timely pay or cause to be paid all costs and expenses incurred in such compliance, and shall keep or cause to be kept all of its facilities free and clear of any liens imposed pursuant to such Environmental Laws, unless the same are being contested in good faith and by appropriate legal proceedings and such contest shall operate to stay the Material Adverse Effect of any such non-compliance.

*Section 7.7. Further Assurances.* From time to time hereafter, the Agency shall execute and deliver such additional instruments, certificates or documents, and shall take all such actions as the Bank may reasonably request for the purposes of implementing or effectuating the provisions of the Loan Documents or for the purpose of more fully perfecting or renewing the Bank's rights with respect to the rights, properties or assets subject to such documents (or with respect to any additions thereto or replacements or proceeds thereof or with respect to any other property or assets hereafter acquired by the Agency which may be deemed to be a part thereof). Upon the exercise by the Bank of any power, right, privilege or remedy pursuant to the Loan Documents which requires any consent, approval, registration, qualification or authorization of any governmental authority or instrumentality, the Agency shall, to the extent permitted by law, execute and deliver all necessary applications, certifications, instruments and other documents and papers that the Bank may be required to obtain for such governmental consent, approval, registration, qualification or authorization.

*Section 7.8. Application of Proceeds of Revolving Loans.* The Agency shall cause the proceeds from Revolving Loans made hereunder to be applied only to pay the Project Costs.

*Section 7.9. Payment of Obligations; Removal of Liens.* The Agency shall duly and punctually pay or cause to be paid the Payment Obligations and the other amounts due hereunder and under the Notes and the other Loan Documents, on the dates, at the places and in the manner provided in or determined in accordance with this Agreement and the Notes according to the true intent and meaning hereof. The Agency will at all times faithfully perform and observe any and all covenants, undertakings and provisions contained in this Agreement or arising in connection with any obligation secured by Gross Revenues. The Agency shall pay (a) all indebtedness and obligations of the Agency in accordance with the terms thereof and (b) all assessments or other governmental charges as the same respectively become due, all taxes, assessments (general or special) and governmental charges of any kind whatsoever that may be at any time lawfully assessed or levied against or with respect to any portion of the Collateral or any interest thereon and promptly discharge or cause to be discharged all liens, encumbrances and charges on such property and assets. The Agency shall include in each of the annual operating budgets for the Wastewater System all amounts reasonably anticipated to be necessary to make payments due to the Bank hereunder or under the Notes or the other Loan Documents.

*Section 7.10. Compliance with Law; Employee Benefit Plan Compliance.* The Agency shall comply with and observe the obligations and requirements set forth in all Laws applicable to it and its Property, except where non-compliance could not reasonably be expected to result in a Material Adverse Effect, such compliance to include, without limitation, paying all taxes, assessments and governmental charges imposed upon it or its Property before the same become delinquent, unless and to the extent that the same are being contested in good faith and by appropriate proceedings and reserves are provided therefor that in the opinion of the Agency are adequate. The Agency shall in a timely fashion, comply, in all material respects with all requirements under any employee benefit plan in which the Agency or any of its employees participate.

*Section 7.11. Compliance with Obligations.* The Agency shall comply with and observe the obligations and requirements arising in connection with any Net Revenue Debt.



*Section 7.12. Receipt and Deposit of Gross Revenues; General Fund.* The Agency covenants and agrees that all Gross Revenues, when and as received, will be received by and held by the Agency in trust for the benefit of all Net Revenue Debt owners and payments with respect to Net Revenue Debt, and will be deposited by the Agency in the General Fund (which the Agency hereby covenants and agrees to maintain so long as any Net Revenue Debt remains outstanding) and will be accounted for and held in trust for the benefit of Net Revenue Debt owners and for payments with respect to Net Revenue Debt. All Gross Revenues shall be disbursed, allocated and applied solely to the uses and purposes set forth in this Section 7.12. All Gross Revenues in the General Fund shall be set aside by the Agency or deposited by the Agency with the Bank or the trustee or fiscal agent with respect to Net Revenue Debt, as the case may be, as follows and shall be applied in the following order of priority:

(a) *Operation and Maintenance Costs of the Wastewater System.* In order to carry out and effectuate the pledge and lien contained in the Net Revenue Debt Issuing Documents, the Agency agrees and covenants to pay all Operation and Maintenance Costs of the Wastewater System (including amounts reasonably required to be set aside in contingency reserves for Operation and Maintenance Costs of the Wastewater System, the payment of which is not then immediately required) from the General Fund as they become due and payable.

(b) *Senior Debt.* Payments of principal of and interest on Senior Debt and all other payments with respect to Senior Debt shall be paid in accordance with the terms of the Senior Debt Issuing Documents, without preference or priority, and in the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(c) *Senior Debt Reserve Funds.* Payments required to replenish debt service reserve funds, if any, established for any Senior Debt shall be made in accordance with the terms of the Senior Debt Issuing Documents, without preference or priority, and in the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(d) *Subordinate Debt.* Payments of the Payment Obligations and principal of and interest on Subordinate Debt and all other payments with respect to the Payment Obligations or the Subordinate Debt shall be paid in accordance with the terms hereof and the Subordinate Debt Issuing Documents, without preference or priority, and in the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(e) *Subordinate Debt Reserve Funds.* Payments required to replenish debt service reserve funds, if any, established for any Subordinate Debt shall be made in accordance with the terms of the Subordinate Debt Issuing Documents, without preference or priority, and in the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(f) *General Expenditures.* All Gross Revenues not required to be withdrawn pursuant to the provisions of subparagraphs (a) through (e) above shall be used for expenditure for any lawful purpose of the Agency, including payment of Operation and

Maintenance Costs of the Wastewater System or payment of any rebate requirement or of any obligation subordinate to the payment of the Payment Obligations and the Subordinate Debt.

Although all Subordinate Debt are secured equally and ratably by a subordinate lien on applicable Net Revenues, moneys with respect to obligations other than the Payment Obligations may be held by trustees or fiscal agents under Net Revenue Debt Issuing Documents. The Agency shall make such transfers from the General Fund necessary to effectuate such Net Revenue Debt's claim on such Net Revenues contemplated by the applicable Net Revenue Debt Issuing Document.

*Section 7.13. Insurance; Reconstruction of Wastewater System; Application of Insurance Proceeds.* The Agency shall at all times maintain with responsible insurers all such insurance on the Wastewater System as is customarily maintained with respect to works and properties of like character against accident to, loss of or damage to such works or properties. All policies of insurance required to be maintained hereunder shall provide that Bank shall be given thirty (30) days' prior written notice of any intended cancellation thereof or reduction of coverage provided thereby. The Agency shall provide to the Bank evidence that all such insurance with respect to the Wastewater System is in effect promptly upon renewal thereof. If any useful part of the Wastewater System is damaged or destroyed, such part will be restored for use or will be replaced. In the event of any damage to or destruction of the Wastewater System 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 Wastewater System. The Agency shall cause such repair, reconstruction or replacement to be promptly after such damage or destruction shall occur and to continue and to be properly completed as expeditiously as possible, and shall pay out 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 Wastewater System 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 the redemption or prepayment of the Senior Debt on a pro rata basis in the manner provided in the Senior Debt Issuing Documents and then to pay the Payment Obligations and the other Subordinate Debt on a pro rata basis in the manner provided herein and in the Subordinate Debt Issuing Documents. Alternatively, if the proceeds of such insurance are sufficient to enable the Agency to retire all outstanding Net Revenue Debt and all other amounts due under the Net Revenue Debt Issuing Documents, the Agency may elect not to repair, reconstruct or replace the damaged or destroyed portion of the Wastewater System, and thereupon such proceeds shall be applied to the redemption or prepayment of the Senior Debt on a pro rata basis in the manner provided in the Senior Debt Issuing Documents and then to pay the Payment Obligations and the other Subordinate Debt on a pro rata basis in the manner provided herein and in the Subordinate Debt Issuing Documents.

*Section 7.14. Investment Policy.* The Agency shall comply with its investment policy in effect from time to time.

*Section 7.15. Amount of Rates and Charges.* (a) The Agency will fix, prescribe, revise and collect rates, fee and charges for the services and facilities furnished by the Wastewater System during each Fiscal Year which are at least sufficient, after making allowances for contingencies

and error in the estimates, to pay the following amounts in the following order: (i) all Operation and Maintenance Costs estimated by the Agency to become due and payable in the Fiscal Year; (ii) the principal of and interest on the Senior Debt as they become due and payable during the Fiscal Year, without preference or priority; (iii) all payments coming due and payable during the Fiscal Year and required for compliance with the Senior Debt Issuing Documents; (iv) the Payment Obligations and the principal of and interest on the Subordinate Debt as they become due and payable during the Fiscal Year, without preference or priority; (v) all payments coming due and payable during the Fiscal Year and required for compliance with this Agreement and the other Subordinate Debt Issuing Documents; and (vi) all payments required to meet any other obligations of the Agency which are charges, liens, encumbrances upon or payable from the Gross Revenues during the Fiscal Year.

(b) In addition, the Agency will fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Wastewater System during each Fiscal Year which, taking into account allowances for contingencies, are sufficient to yield estimated Net Revenues which are at least equal to 115% of the aggregate amount of principal of and interest on the Net Revenue Debt coming due and payable during such Fiscal Year; *provided*, that, for purposes of such calculation, the principal amount of the outstanding Payment Obligations due and payable on the Revolving Loan Maturity Date shall be assumed to be paid in equal annual installments sufficient to fully amortize such principal over a ten (10) year term commencing on the Stated Commitment Expiration Date.

*Section 7.16. Collection of Rates and Charges.* The Agency shall have in effect at all times rules and regulations requiring each consumer or customer located on any premises connected with the Wastewater System to pay the rates, fees and charges applicable to the services and facilities furnished by the Wastewater System to such premises and providing for the billing thereof and for a due date and a delinquency date for each bill. The Agency shall not permit any part of the Wastewater System 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, the State and any city, county, district, political subdivision, public corporation or agency of any thereof); *provided* that the Agency may without charge use the Wastewater System.

*Section 7.17. Other Agreements.* While this Agreement remains in effect, if the Agency executes and delivers a final agreement evidencing a revolving credit agreement with a financial institution substantially similar to the financial arrangements provided for in this Agreement (“*Additional Agreement*”) constituting Subordinate Debt with pricing terms (including, without limitation, interest rates, default rates, utilized facility fees, unutilized facility fees and termination fees) that are more favorable than are provided to the Bank in this Agreement, more restrictive covenants than are provided to the Bank in this Agreement, and/or events of default and/or remedies that are more favorable than are provided to the Bank in this Agreement (collectively, the “*Additional Rights*”), then the Agency shall provide the Bank with a copy of such *Additional Agreement* and the *Additional Rights* shall be automatically deemed incorporated into this Agreement and the Bank shall have the benefit of the *Additional Rights*. The Agency shall promptly cooperate with the Bank to enter into an amendment of this Agreement to include such *Additional Rights*.

*Section 7.18. Preservation of Lien.* The Agency shall take all necessary action to maintain and preserve the lien on and security interest in the Collateral securing the Payment Obligations and the payment and performance of the Agency's obligations hereunder and under the Notes and the other Loan Documents.

*Section 7.19. Sovereign Immunity.* The Agency agrees not to assert any defense of sovereign immunity, if available, in any proceeding initiated by the Bank to enforce any of the obligations of the Agency hereunder or under the Notes or the other Loan Documents. To the extent that the Agency has or hereafter may acquire under any applicable law any right to immunity from set off or legal proceedings, including but not limited to a writ of mandamus ordering a levy of taxes by the Agency, on the grounds of sovereignty or otherwise, the Agency, to the extent permitted by law, hereby irrevocably waives such rights to immunity for itself and agrees not to invoke any defense of immunity in respect of its obligations arising under or related to this Agreement, the Notes or the other Loan Documents.

*Section 7.20. Maintenance of Wastewater System.* The Agency shall at all times operate or cause to be operated the Wastewater System properly and in an efficient and economical manner, and shall maintain, preserve, reconstruct and keep the same or cause the same to be so maintained, preserved, reconstructed and kept, with the appurtenances and every part and parcel thereof, in good repair, working order and condition, and shall from time to time make, or cause to be made, all necessary and proper repairs, replacements and renewals so that at all times the operation of the Wastewater System may be properly and advantageously conducted. The Agency shall pay (a) all indebtedness and obligations of the Agency in accordance with the terms thereof and (b) all assessments or other governmental charges as the same respectively become due, all taxes, assessments (general or special) and governmental charges of any kind whatsoever that may be at any time lawfully assessed or levied against or with respect to the Wastewater System or Net Revenues or any interest thereon and promptly discharge or cause to be discharged all liens, encumbrances and charges on such property and assets.

*Section 7.21. Rating.* The Agency shall maintain Senior Debt Long-Term Credit Ratings equal to or above "BBB" and "Baa2" or its equivalent by any Rating Agency.

*Section 7.22. Eminent Domain.* If all or any part of the Wastewater System shall be taken by eminent domain proceedings, the Net Proceeds thereof shall be applied as follows: (a) if (i) the Agency certifies (x) the estimated loss of Net Revenues, if any suffered or to be suffered by the Agency by reason of such eminent domain proceedings, (ii) a general description of the additions, betterments, extensions or improvements to the Wastewater System proposed to be acquired by the Agency 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 (ii) 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 Agency to meet its obligations hereunder will not be substantially impaired (which determination shall be final and conclusive); then the Agency shall promptly proceed with the acquisition of such additions, betterments, extensions or improvements substantially in accordance with such certification 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 Agency for

such purpose shall be applied to pay the Senior Debt on a pro rata basis in the manner provided in the Senior Debt Issuing Documents and then to pay the Payment Obligations and the other Subordinate Debt on a pro rata basis in the manner provided herein and in the Subordinate Debt Issuing Documents. If the foregoing conditions are not met, then such Net Proceeds shall be applied to pay the Senior Debt on a pro rata basis in the manner provided in the Senior Debt Issuing Documents and then to pay the Payment Obligations and the other Subordinate Debt on a pro rata basis in the manner provided herein and in the Subordinate Debt Issuing Documents.

## ARTICLE VIII

### NEGATIVE COVENANTS OF THE AGENCY

While the Line of Credit is outstanding and until all of the Payment Obligations shall have been paid in full, the Agency shall not do any of the following, without the prior written consent of the Bank:

*Section 8.1. Changes in Obligations.* The Agency shall not repeal, modify, amend or supplement any provision of the **PWMGRP SRF Loan/Proposition 1 Water Recycling Funding Program Construction Grant Documents or the Proposition 1 Storm Water Grant Documents** that could reasonably be expected to result in a Material Adverse Effect. The Agency shall not repeal, modify, amend or supplement any provision of any Loan Document (other than the PWMGRP SRF Loan/Proposition 1 Water Recycling Funding Program Construction Grant Documents and the Proposition 1 Storm Water Grant Documents).

*Section 8.2. Additional Debt.* The Agency shall not issue or incur any Debt except:

- (a) Net Revenue Debt issued solely to pay or prepay the Payment Obligations, fund a reserve fund for such Net Revenue Debt and pay the costs of issuance of such Net Revenue Debt;
- (b) Net Revenue Debt, if upon such issuance there will be no Payment Obligations outstanding;
- (c) the PWMGRP SRF Loan, the proceeds of which PWMGRP SRF Loan are to be used to repay the Payment Obligations;
- (d) Senior Debt secured by a pledge of and lien upon any portion of the Net Revenues on a basis senior to the lien on the Net Revenues securing the Payment Obligations, upon satisfaction of the conditions to issuance of additional Senior Debt set forth in the Senior Debt Issuing Documents; and
- (e) Net Revenue Debt (including without limitation any SRF Loans described in clause (c) of the definition thereof) secured by a pledge of and lien upon any portion of

the Net Revenues on a basis subordinate to or on a parity with the lien on the Net Revenues securing the Payment Obligations, upon satisfaction of the following conditions:

(i) no Default or Event of Default has occurred and is continuing;

(ii) the Net Revenues, calculated in accordance with sound accounting principles, as shown by the books of the Agency for the latest Fiscal Year or as shown by the books of the Agency for any more recent twelve (12) month period selected by the Agency, in either case verified by a certificate or opinion of an Independent Accountant or Financial Consultant employed by the Agency, minus any One-Time Revenues for such twelve (12) month period, plus (at the option of the Agency) the Additional Revenues, are at least equal to 115% of the amount of Maximum Annual Debt Service on the Net Revenue Debt and the proposed Net Revenue Debt, and at least equal to 1.0 times coverage of the Revolving Loans;

(iii) such Net Revenue Debt is issued or incurred to finance the costs of capital improvements to the Wastewater System;

(iv) the Agency has otherwise complied with all conditions to the issuance or incurrence of such Net Revenue Debt set forth in any Net Revenue Debt Issuing Documents; and

(v) the Bank shall have received a certificate of an Authorized Representative certifying that the conditions precedent to the issuance of such Net Revenue Debt (including without limitation any SRF Loans described in clause (c) of the definition thereof but not including the PWMGRP SRF Loan) set forth in this Section 8.2(e) have been satisfied and including a calculation showing the Agency's compliance with Section 8.2(e)(ii).

*Section 8.3. Swap Termination Payments.* The Agency shall not enter into any Swap Contract (a) under which a termination payment would be required to be paid from any portion of the Collateral on a basis senior to or on a parity with the lien on the Collateral securing the Payment Obligations or (b) which requires the Agency to post cash collateral to secure its obligations thereunder.

*Section 8.4. No Impairment.* The Agency will neither take any action, nor cause or permit any other Person to take any action, under the Loan Documents inconsistent with the rights of the Bank under this Agreement including, without limitation, the Payment Obligations and pledge of the Collateral. The Agency will neither agree to any amendment, modification or supplement to any Loan Document to which it is a party without the prior written consent of the Bank, nor shall the Agency waive or consent to any waiver of any condition under any Loan Document.

*Section 8.5. [Reserved].*

*Section 8.6. References to the Bank.* The Agency shall not refer to the Bank in any official statement, offering memorandum, or private placement memorandum (other than a factual

description of this Agreement without a specific reference to the Bank) without the Bank's prior written consent thereto.

*Section 8.7. No Sale, Assignment, Transfer or Pledge.* The Agency shall not sell, mortgage or otherwise dispose of the Wastewater System or any portion thereof essential to the proper operation of the Wastewater System or to the maintenance of Net Revenues. The Agency shall not enter into any lease or agreement which materially impairs the operation of the Wastewater System or any part thereof necessary to secure adequate Net Revenues for the payment of Payment Obligations or payment and performance of the Agency's obligations under this Agreement, the Notes or the other Loan Documents.

*Section 8.8. Consolidation or Merger.* The Agency shall not consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it or acquire all or substantially all of the property and assets of any other Person without the prior written consent of the Bank.

*Section 8.9. Accounting Methods and Fiscal Year.* The Agency shall not adopt, permit or consent to any change in accounting practices other than as required by GAAP and will not adopt, permit or consent to any change in its Fiscal Year.

*Section 8.10. No Priority Claim.* The Agency shall not, directly or indirectly, incur, create, assume or permit any Lien on any portion of the Collateral with a claim to payment of equal to or of higher priority than the claim of the Payment Obligations or any of the Agency's obligations under this Agreement, the Notes or the other Loan Documents.

*Section 8.11. Competing Utility.* The Agency shall not acquire, construct, operate or maintain, and shall not, within the scope of its lawful powers, permit any other private or public corporation, political subdivision, authority or agency, or any person whomsoever to acquire, construct, operate or maintain any competing system or utility in an area presently served by the Wastewater System.

## **ARTICLE IX**

### **DEFAULTS AND REMEDIES**

*Section 9.1. Events of Default.* The occurrence of any of the following events (including the expiration of any specified time) shall constitute an "Event of Default," unless waived by the Bank in writing:

(a) The Agency fails to pay, or cause to be paid, when due (i) any principal and interest due hereunder or under the Notes, or (ii) any other amounts due hereunder or under the Notes or any other amounts due to the Bank under any other Loan Document; or

(b) (i) The Agency fails to perform or observe any term, covenant or agreement contained in Section 7.1, 7.6, 7.8, 7.12, 7.13, 7.14, 7.15, 7.16, 7.17, 7.19, 7.20, 7.21, 7.22

or Article VIII hereof or (ii) the Agency fails to perform or observe any term, covenant or agreement contained in this Agreement (other than those referred to in Section 9.1(a) and (b)(i)) and any such failure is irremediable or, if remediable, remains unremedied for thirty (30) days after notice thereof to the Agency;

(c) (i) A default occurs with respect to the payment of any Net Revenue Debt or any interest or premium thereon as and when the same shall become due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) (including any amount due in respect of any other obligation owed to the Bank as and when the same shall become due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise)); or (ii) a default occurs under any mortgage, agreement or other instrument relating to any Net Revenue Debt or other obligation owed to the Bank, and continuance of such default beyond the period of grace, if any, allowed with respect thereto, or the occurrence of any act or omission by the Agency under any such mortgage, agreement or other instrument which results in such Net Revenue Debt or other obligation owed to the Bank becoming, or being capable of becoming, immediately due and payable or any such Net Revenue Debt or other obligation owed to the Bank is otherwise required to be prepaid (other than by a regularly scheduled required prepayment or an optional prepayment) prior to the stated maturity thereof; or

(d) The Agency has taken or permitted to be taken any action which would materially adversely affect the enforceability of this Agreement, the Notes, any other Loan Document or any other Net Revenue Debt Issuing Document against the Agency or the legal ability of the Agency to pay Payment Obligations or any Net Revenue Debt when due; or

(e) A court of competent jurisdiction shall enter a final, nonappealable order or judgment to the effect that any Net Revenue Debt is illegal or unenforceable; or

(f) The issuance of any Net Revenue Debt shall result in a violation by the Agency of any material law, rule or regulation, or any order of any court, governmental agency or regulatory body, or any indenture or loan or credit agreement (including this Agreement), or any other agreement or instrument, applicable to the Agency or to such issuance; or

(g) Any representation or warranty on the part of the Agency contained in any Loan Document or in any certificate, letter or other writing or instrument furnished or delivered by the Agency to the Bank pursuant hereto or thereto or in connection herewith or therewith, shall at any time prove to have been incorrect in any material respect when made or deemed made or when effective or when reaffirmed, as the case may be, whether by misstatement or omission; or

(h) Any material provision of this Agreement, the Notes or the other Loan Documents shall at any time for any reason cease to be valid and binding on the Agency or shall be declared to be null and void by any court or governmental authority or agency having jurisdiction over the Agency, or the validity or the enforceability of any material



provision of this Agreement, the Notes or the other Loan Documents shall at any time be contested by the Agency in a judicial or administrative proceeding or the Agency shall deny that it has any or further liability or obligation under any material provision of this Agreement, the Notes or the other Loan Documents, or the validity or enforceability of any material provision of this Agreement, the Notes or the other Loan Documents shall be contested by any governmental agency or authority having jurisdiction over the Agency; or

(i) The Agency fails to pay when due a final, nonappealable judgment or order for the payment of money in excess of \$1,000,000 and for which insurance proceeds shall not be available shall be rendered against the Agency or the Wastewater System and such judgment or order shall continue unstayed, undischarged, unbonded or unsatisfied for a period of sixty (60) days; or

(j) An Event of Insolvency shall occur with respect to the Agency; or

(k) The Bank fails to have an enforceable lien on and security interest in the Collateral with the priority as contemplated by Section 4.1 hereof; or

(l) Any funds or investments on deposit in, or otherwise to the credit of, the General Fund or any of the funds or accounts established hereunder or under any Loan Document or any other Net Revenue Debt Issuing Document shall become subject to any writ, judgment, warrant or attachment, execution or similar process; or

(m) The occurrence and continuation of an Event of Default or event of nonperformance under, or the occurrence of an event which results in or permits the early termination of, any of the Loan Documents after the expiration of any applicable grace period (other than as specified in another Event of Default under this Section 9.1); or

(n) The Agency's accountant delivers a qualified opinion with respect to the Agency's or the Wastewater System's status as an on-going concern; or

(o) Any of the Senior Debt Long-Term Credit Ratings is withdrawn or suspended or otherwise unavailable for credit-related reasons or reduced below "BBB" or "Baa2" by any Rating Agency; or

(p) The occurrence of any event (other than as specified in another Event of Default under this Section 9.1) which has had, or may result in, any Material Adverse Effect.

## *Section 9.2. Rights and Remedies Upon Default.*

(a) *Automatic Termination.* In the case of any Event of Default specified in Section 9.1(j) that has occurred, (i) the Commitment shall immediately terminate automatically and the Available Commitment shall be reduced to zero automatically and will no longer be reinstated and thereafter, the Bank will have no further obligation to make Revolving Loans hereunder and (ii) all amounts

due hereunder and under the Notes and the other Loan Documents (including without limitation all Revolving Loans, the Notes and interest thereon) shall immediately become due and payable. Upon such termination, the Bank shall send a notice thereof in the form of Exhibit H hereto to the Agency; *provided* that failure to send or receive such notice shall not affect the termination of the Commitment as provided hereunder.

(b) *All Events of Default.* In the case of any Event of Default, including any Event of Default specified in Section 9.1(j), that has occurred and is continuing, the Bank may, in its sole discretion, but shall not be obligated to, exercise all, or any of, the following rights and remedies:

(i) By notice to the Agency, declare all amounts due hereunder and under the Notes and the other Loan Documents (including without limitation all Revolving Loans, the Notes and interest thereon) immediately due and payable; and/or

(ii) By notice to the Agency in the form of Exhibit H hereto, reduce the Available Commitment to zero and thereafter the Bank will have no further obligation to make Revolving Loans hereunder and/or terminate the Commitment; and/or

(iii) Petition a court of competent jurisdiction to issue a mandamus order to the Agency to compel specific performance of the covenants of the Agency contained in any of the Loan Documents; and/or

(iv) Provide written notice of the occurrence of an Event of Default to the Agency and exercise any rights and remedies available to the Bank at law, equity or hereunder or under any Loan Document.

Except as expressly provided in this Section 9.2, procurement, demand, protest and all other notices of every kind are hereby expressly waived.

*Section 9.3. No Waiver of Remedies.* No waiver of any breach of or default under any provision of this Agreement, the Notes or any of the other Loan Documents shall constitute or be construed as a waiver by the Bank of any subsequent breach of or default under that or any other provision of any of the Loan Documents.

*Section 9.4. Remedies Not Exclusive.* No remedy herein conferred upon the Bank is intended to be exclusive of any other remedy herein or in any other agreement between the parties hereto or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law, in equity or by statute.

## ARTICLE X

### MISCELLANEOUS

*Section 10.1. Evidence of Debt.* The Bank shall maintain in accordance with its usual practices an account or accounts evidencing the indebtedness resulting from each Revolving Loan

made from time to time hereunder and the amounts of principal and interest payable and paid from time to time hereunder. In any legal action or proceeding in respect of this Agreement, the entries made in such account or accounts shall be conclusive evidence (absent manifest error) of the existence and amounts of the obligations therein recorded.

*Section 10.2. Amendments, Etc.* No amendment or waiver of any provision of this Agreement nor consent to any departure by the parties hereto shall in any event be effective unless the same shall be in writing and signed by such parties, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

*Section 10.3. Addresses for Notices; Bank's Office.* Any notice required or permitted to be given under or in connection with this Agreement shall be in writing and shall be mailed by first-class mail, registered or certified, return receipt requested, or express mail, postage prepaid, or sent by email, telex, telegram, telecopy or other similar form of rapid transmission confirmed by mailing (by first-class mail, registered or certified, return receipt requested, or express mail, postage prepaid) written confirmation at substantially the same time as such rapid transmission, or personally delivered to an officer of the receiving party. All such communications shall be mailed, sent or delivered to the address or numbers set forth below, or as to each party at such other address or numbers as shall be designated by such party in a written notice to the other parties.

(i) If to the Agency:

Monterey One Water  
5 Harris Court, Building D  
Monterey, California 93940  
Attention: Chief Financial Officer  
Telephone: (831) 645-4630  
Facsimile: (831) 647-1766  
Email: fred@my1water.org

(ii) If to the Bank:

Payment Instructions:

Bank of America, N.A.  
ABA #: 026009593  
Account #: 1365840632100  
Attention: BLSF&O Operations  
FFC: Monterey One

Notices:

Bank of America, N.A.  
2600 W. Big Beaver Road  
Troy, MI 48064-3323  
Attention: Susan Molnar  
Telephone: (248) 631-0531  
Email: susan.molnar@bofa.com

With a copy to:

Bank of America, N.A.  
Attention: Scott Nash  
Telephone: (415) 436-4379  
Email: scott.t.nash@bofa.com

*Section 10.4. Survival of this Agreement.* All covenants, agreements, representations and warranties made in this Agreement shall survive the extension by the Bank of the Commitment and shall continue in full force and effect so long as the Commitment shall be unexpired or any sums drawn or due thereunder or any other obligations shall be outstanding and unpaid, regardless of any investigation made by any Person and so long as any amount payable hereunder remains unpaid. The agreement of the Agency to indemnify the Bank under Section 5.2 hereof shall continue in full force and effect notwithstanding a termination of the Commitment or the payment in full of all Payment Obligations. The obligations of the Agency under Sections 5.2, 5.3 and 10.5 shall also continue in full force and effect notwithstanding a termination of the Commitment or the payment in full of all Payment Obligations. Whenever in this Agreement, the Notes or any other Loan Document the Bank is referred to, such reference shall be deemed to include the successors and assigns of the Bank and all covenants, promises and agreements by or on behalf of the Agency which are contained in this Agreement, the Notes or any other Loan Document shall inure to the benefit of the successors and assigns of the Bank. The rights and duties of the Agency may not be assigned or transferred without the prior written consent of the Bank, and all obligations of the Agency hereunder and under the Notes and other Loan Documents shall continue in full force and effect notwithstanding any assignment by the Agency of any of its rights or obligations hereunder or under the Notes or any other Loan Document or any entering into, or consent by the Agency to, any supplement or amendment to, or termination of, this Agreement, the Notes or any other Loan Document. In connection with any proposed sale or assignment of any of its rights or security hereunder or under the Notes or any other Loan Document, the Bank may disclose to the proposed purchaser any information the Bank may have concerning the Agency. In addition, the Bank may collaterally assign and pledge, without the consent of the Agency, all or any portion of the obligations owing to it to any Federal Reserve Bank or the United States Treasury as collateral security pursuant to Regulation A of the Board of Governors of the Federal Reserve System and any Operating Circular issued by such Federal Reserve Bank, *provided* that any payment in respect of such assigned obligations made by the Agency to the Bank in accordance with the terms of this Agreement, the Notes or the other Loan Documents shall satisfy the Agency's obligations hereunder or under the Notes or the other Loan Documents in respect of such assigned obligation

to the extent of such payment. No such collateral assignment shall release the Bank from its obligations hereunder.

*Section 10.5. Costs, Expenses and Taxes.* The Agency agrees (i) to pay on demand all costs and expenses (including fees and disbursements of the Bank's counsel) in connection with the preparation, issuance, execution, delivery, filing, enforcement and administration of any of the Loan Documents and any other instruments or agreements which may be delivered pursuant to or in connection therewith, or pursuant to or in connection with any waiver or amendment of, or the giving of any consent under, this Agreement or any of the Loan Documents and such other instruments or agreements and (ii) to pay on demand any and all stamp and other taxes and fees payable or determined to be payable in connection with the execution, delivery, filing and recording of this Agreement or any of the Loan Documents and such other instruments and agrees to indemnify and hold the Bank harmless from and against any and all liabilities with respect to or resulting from any delay in paying or omission to pay such taxes and fees. The obligations of the Agency under this Section 10.5 shall survive the termination of the Commitment and the payment in full of all Payment Obligations.

*Section 10.6. Right of Setoff; Other Collateral.* (a) Upon the occurrence and during the continuation of an Event of Default, the Bank is hereby authorized at any time and from time to time without notice to the Agency (any such notice being expressly waived by the Agency), and to the fullest extent permitted by law, to setoff, to exercise any banker's lien or any right of attachment and to apply any and all balances, credits, deposits (general or special, time or demand, provisional or final), accounts or monies relating to the Wastewater System at any time held and other indebtedness at any time owing by the Bank to or for the account of the Agency relating to the Wastewater System (irrespective of the currency in which such accounts, monies or indebtedness may be denominated and the Bank is authorized to convert such accounts, monies and indebtedness into dollars) against any and all of the obligations and liabilities of the Agency arising under or connected with this Agreement, the Notes and the other Loan Documents, whether or not the Bank shall have made any demand hereunder or thereunder.

(b) The rights of the Bank under this Section are in addition to, in augmentation of, and do not derogate from or impair, other rights and remedies (including, without limitation, other rights of set-off) which the Bank may have. The Bank agrees to promptly notify the Agency after any such set-off and application referred to in subsection (a) above, *provided* that failure to give such notice shall not affect the validity of such set-off and application.

(c) For such purpose, the Bank shall have, and the Agency hereby grants to the Bank, a first lien on and security interest in such deposits, property, funds and accounts held or maintained by the Bank relating to the Wastewater System and the proceeds thereof.

*Section 10.7. Severability.* Any provision of this Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or nonauthorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

*Section 10.8. Governing Law; Waiver of Jury Trial; Jurisdiction and Venue.* (a) This Agreement shall be governed by, and construed and interpreted in accordance with the laws of the State.

(b) Each party to this Agreement, to the fullest extent permitted by law, hereby waives its respective right to a trial by jury in any legal proceeding arising out of or relating to this Agreement, the Notes or any other Loan Document or the transactions contemplated hereby or thereby. The Agency warrants and represents that such waiver has been intentionally, knowingly and voluntarily made, following consultation with its legal counsel. If the waiver of jury trial as set forth in this Section shall be declared void or unenforceable, each of the Agency and the Bank agrees to refer the dispute to a judicial referee in accordance with the provisions of Section 638 *et seq.* of the California Code of Civil Procedure.

(c) Each of the parties hereto hereby submits to the exclusive jurisdiction of any federal or state court of competent jurisdiction in the State for the purpose of any suit, action or other proceeding arising out of or relating to this Agreement and the Notes and hereby waives any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts and any claim that any such suit, action or proceeding has been brought in an inconvenient forum; service of process may be accomplished by registered mail, return receipt requested to each of the parties at the address listed for notice in Section 10.3 hereof.

*Section 10.9. Participations by the Bank.* The Bank may grant participations herein or in any of its rights and security hereunder. Any such participant is referred to in this Agreement as a “Participant.” In connection with any proposed participation, the Bank may disclose to the proposed Participant any information the Bank may have concerning the Agency. The Agency agrees that the provisions of this Agreement shall run to the benefit of each Participant and its participations or interests herein and the Bank may enforce such provisions on behalf of any such Participant. The foregoing notwithstanding, no participation shall in any way affect any of the obligations of the Bank hereunder, and the Agency shall have no obligation to deal in any manner with any such Participant.

*Section 10.10. Headings.* Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

*Section 10.11. Counterparts.* This Agreement may be executed in any number of counterparts and by different parties hereto on separate counterparts, each of which counterparts, taken together; shall constitute but one and the same Agreement.

*Section 10.12. Patriot Act.* The Bank hereby notifies the Agency that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Patriot Act”), it is required to obtain, verify and record information that includes the name and address of the Agency and other information that will allow the Bank to identify the Agency in accordance with the Patriot Act. The Agency agrees to, promptly following a request by the Bank, provide all such other documentation and information that the Bank requests in order

to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act.

*Section 10.13. No Advisory or Fiduciary Relationship.* In connection with any aspect of the transactions contemplated by this Agreement (including in connection with any amendment, waiver or other modification hereof or of any Loan Document), the Agency acknowledges and agrees that the Bank has not provided advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms and other similar matters concerning such financial products or issues; or undertaken a solicitation of a municipal entity, within the meaning of Section 975 of the Dodd-Frank Act.

*Section 10.14. Integration.* This Agreement constitutes the entire agreement between the Bank and the Agency regarding the Line of Credit, and all prior oral or written communications between the Agency and the Bank shall be of no further effect or evidentiary value.

*Section 10.15. Redactions.* To the extent required to be delivered to the Municipal Securities Rulemaking Board (the “MSRB”) pursuant to Rule G-34 or any similar or successor MSRB rule, upon request the Bank shall provide to the Agency versions of this Agreement and the other Loan Documents as amended that have been redacted in a manner consistent with MSRB Notice 2011-17 (February 23, 2011) or any similar or successor MSRB notice. The Agency shall only provide such redacted versions from the Bank to any broker-dealer that requests such documents for purposes of delivery to the MSRB pursuant to Rule G-34 or any similar or successor MSRB rule. If the Agency provides such documents directly to the MSRB for dissemination pursuant to Rule G-34 or any similar or successor MSRB rule, the Agency shall only provide such redacted copies from the Bank to the MSRB.

*Section 10.16. Tax Identification Number.* The Agency’s tax identification number is 94-2424202.

*Section 10.17. US QFC Stay Rules.*

(a) *Recognition of U.S. Resolution Regimes.* In the event that any party that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of this Agreement (and any interest and obligation in or under this Agreement and any property securing this Agreement) from such Covered Entity will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement (and any such interest, obligation and property) were governed by the laws of the United States or a state of the United States. In the event that any party that is a Covered Entity or a BHC Act Affiliate of such party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights against such party with respect to this Agreement are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States. The requirements of this paragraph (a) apply notwithstanding the provisions of paragraph (b).

(b) *Limitation on the Exercise of Certain Rights Related to Affiliate Insolvency Proceedings.* Notwithstanding anything to the contrary in this Agreement or any related agreement, but subject to the requirements of paragraph (a), no party to this Agreement shall be permitted to exercise any Default Right against a party that is a Covered Entity with respect to this Agreement that is related, directly or indirectly, to a BHC Act Affiliate of such Covered Entity becoming subject to Insolvency Proceedings, except to the extent the exercise of such Default Right would be permitted under 12 C.F.R. § 252.84, 12 C.F.R. § 47.5, or 12 C.F.R. § 382.4, as applicable. After a BHC Act Affiliate of a party that is a Covered Entity has become subject to Insolvency Proceedings, any party that seeks to exercise a Default Right against such Covered Entity with respect to this Agreement shall have the burden of proof, by clear and convincing evidence, that the exercise of such Default Right is permitted hereunder.

“*BHC Act Affiliate*” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“*Covered Entity*” means any of the following:

(a) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(b) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(c) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“*Default Right*” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“*Insolvency Proceeding*” means a receivership, insolvency, liquidation, resolution, or similar proceeding.

“*U.S. Special Resolution Regime*” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

[The remainder of this page intentionally left blank]



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

MONTEREY ONE WATER (formerly known as  
Monterey Regional Water Pollution Control  
Agency)

By: Fred Marsh  
Name: Fred Marsh  
Title: Chief Financial Officer

BANK OF AMERICA, N.A.

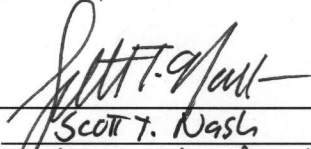
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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

MONTEREY ONE WATER (formerly known as  
Monterey Regional Water Pollution Control  
Agency)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

BANK OF AMERICA, N.A.

By:  \_\_\_\_\_  
Name: SCOTT T. NASH  
Title: SENIOR VICE PRESIDENT

## EXHIBIT A-1

### [FORM OF TAX-EXEMPT NOTE]

**\$15,000,000**

Dated April 8, 2020  
Monterey, California

For value received, MONTEREY ONE WATER (formerly known as Monterey Regional Water Pollution Control Agency) (the “Agency”) promises to pay to the order of BANK OF AMERICA, N.A., and its successors and assigns (the “Bank”), the amount of FIFTEEN MILLION DOLLARS AND NO CENTS (\$15,000,000) or, if less, the aggregate unpaid principal amount of all Tax-Exempt Revolving Loans made by the Bank from time to time pursuant to the Credit Agreement, dated April 8, 2020 (together with any amendments or supplements thereto, the “Agreement”), by and between the Agency and the Bank, on the dates and in the amounts provided for in the Agreement.

The Agency promises to pay interest on the unpaid principal amount of all Tax-Exempt Revolving Loans on the dates and at the rates provided for in the Agreement. All payments of principal and interest shall be made to the Bank in lawful money of the United States of America in immediately available funds. All capitalized terms used herein and not otherwise defined herein shall have the meanings specified in the Agreement.

This Tax-Exempt Note is the Tax-Exempt Note referred to in the Agreement and is entitled to the benefits thereof and of the Loan Documents referred to therein. As provided in the Agreement, this Tax-Exempt Note is subject to prepayment, in whole or in part. In case an Event of Default (as defined in the Agreement) shall occur and be continuing the principal of and accrued interest on this Tax-Exempt Note may be declared due and payable in the manner and with the effect provided in the Agreement.

This Tax-Exempt Note is payable solely from the Collateral in accordance with the Agreement, and this Tax-Exempt Note does not constitute a legal or equitable pledge, charge, lien or encumbrance upon any other property of the Agency. The holder hereof shall not have the right to demand payment of this obligation from any sources or properties of the Agency except the Collateral.

THIS TAX-EXEMPT NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA.

MONTEREY ONE WATER (formerly known as  
Monterey Regional Water Pollution Control  
Agency)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A-2**

**[FORM OF TAXABLE NOTE]**

**\$15,000,000**

Dated April 8, 2020  
Monterey, California

For value received, MONTEREY ONE WATER (formerly known as Monterey Regional Water Pollution Control Agency) (the “Agency”) promises to pay to the order of BANK OF AMERICA, N.A., and its successors and assigns (the “Bank”), the amount of FIFTEEN MILLION DOLLARS AND NO CENTS (\$15,000,000) or, if less, the aggregate unpaid principal amount of all Taxable Revolving Loans made by the Bank from time to time pursuant to the Credit Agreement, dated April 8, 2020 (together with any amendments or supplements thereto, the “Agreement”), by and between the Agency and the Bank, on the dates and in the amounts provided for in the Agreement.

The Agency promises to pay interest on the unpaid principal amount of all Taxable Revolving Loans on the dates and at the rates provided for in the Agreement. All payments of principal and interest shall be made to the Bank in lawful money of the United States of America in immediately available funds. All capitalized terms used herein and not otherwise defined herein shall have the meanings specified in the Agreement.

This Taxable Note is the Taxable Note referred to in the Agreement and is entitled to the benefits thereof and of the Loan Documents referred to therein. As provided in the Agreement, this Taxable Note is subject to prepayment, in whole or in part. In case an Event of Default (as defined in the Agreement) shall occur and be continuing the principal of and accrued interest on this Taxable Note may be declared due and payable in the manner and with the effect provided in the Agreement.

This Taxable Note is payable solely from the Collateral in accordance with the Agreement, and this Taxable Note does not constitute a legal or equitable pledge, charge, lien or encumbrance upon any other property of the Agency. The holder hereof shall not have the right to demand payment of this obligation from any sources or properties of the Agency except the Collateral.

THIS TAXABLE NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA.

MONTEREY ONE WATER (formerly known as  
Monterey Regional Water Pollution Control  
Agency)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT B**

**[FORM OF REQUEST FOR LOAN]**

**REQUEST FOR LOAN**

Bank of America, N.A.  
Attention: Susan Molnar  
Email: susan.molnar@bofa.com

Bank of America, N.A.  
Attention: Scott Nash  
Email: scott.t.nash@bofa.com

Ladies and Gentlemen:

The undersigned, an Authorized Representative of Monterey One Water (formerly known as Monterey Regional Water Pollution Control Agency) (the “Agency”), pursuant to Section 2.2 of the Credit Agreement, dated April 8, 2020 (together with any amendments or supplements thereto, the “Agreement”), by and between the Agency and Bank of America, N.A. (the “Bank”) (the terms defined therein being used herein as therein defined), hereby requests that the Bank make a Revolving Loan under the Agreement in a principal amount not exceeding the then-outstanding Available Commitment, and in that connection sets forth below the following information relating to such Revolving Loan (the “Proposed Revolving Loan”):

1. The aggregate amount of the Proposed Revolving Loan is \$\_\_\_\_\_;
2. The Proposed Revolving Loan is requested to be funded on \_\_\_\_\_ (the “Loan Date”), which date is a Business Day at least three (3) Business Days after the Bank’s receipt of this Request for Loan;
3. The Agency hereby designates the Revolving Loan resulting from the Proposed Revolving Loan as a [Taxable Revolving Loan] / [Tax-Exempt Revolving Loan] / [Tax-Exempt SIFMA Rate Loan];<sup>1</sup>
4. The aggregate amount of the Proposed Revolving Loan shall be used solely for the payment of Project Costs reimbursable from the SRF Loans, the Proposition 1 Storm Water Grant, the Proposition 1 Water Recycling Funding Program Construction Grant and Net Revenues;
5. The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the date of the Proposed Revolving Loan, at the time the Proposed Revolving Loan is to be made and as a result thereof, immediately thereafter: (a) all representations and warranties of the Agency contained in the Agreement are true and correct as though made on the date hereof and on the Loan Date; and (b) no Default or

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<sup>1</sup> Once any Revolving Loan has been converted into a Tax-Exempt SIFMA Rate Loan, it may not be converted into any other Revolving Loan.

Event of Default shall have occurred and be continuing on the date hereof and on the Loan Date; and

6. The proposed Revolving Loan shall be made by the Bank by wire transfer of immediately available funds to the Agency in accordance with the instructions set forth below:

Union Bank  
1980 Saturn St.  
Monterey Park, CA 91755

Routing Number (ABA): 122000496

Credit to Checking Account Number: 0041002585 – MRWPCA – General Fund

IN WITNESS WHEREOF, the Agency has executed and delivered this Request for Loan this \_\_\_ day of \_\_\_\_\_, \_\_\_\_.

MONTEREY ONE WATER (formerly known as  
Monterey Regional Water Pollution Control  
Agency)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**EXHIBIT C**

**[FORM OF REQUEST FOR EXTENSION]**

**REQUEST FOR EXTENSION**

Bank of America, N.A.  
2600 W. Big Beaver Road  
Troy, MI 48084-3323  
Attention: Susan Molnar  
Email: susan.molnar@bofa.com

Bank of America, N.A.  
Attention: Scott T. Nash  
Email: scott.t.nash@bofa.com

Ladies and Gentlemen:

Reference is made to the Credit Agreement dated April 8, 2020 (together with any amendments or supplements thereto, the “*Agreement*”) by and between Monterey One Water (formerly known as Monterey Regional Water Pollution Control Agency) (the “*Agency*”) and Bank of America, N.A. (the “*Bank*”). All terms defined in the Agreement are used herein as defined therein.

The Agency hereby requests, pursuant to Section 2.7 of the Agreement, that the Stated Commitment Expiration Date with respect to the Available Commitment as of the date hereof be extended to \_\_\_\_\_, \_\_\_\_\_. Pursuant to such Section 2.7, we have enclosed with this request the following information:

1. A reasonably detailed description of any and all Defaults that have occurred and are continuing;
2. Confirmation that all representations and warranties of the Agency as set forth in Article VI of the Agreement are true and correct as though made on the date hereof and that no Default or Event of Default has occurred and is continuing on the date hereof; and
3. Any other pertinent information previously requested by the Bank.

The Bank is required to notify the Agency of its decision with respect to this request within sixty (60) days of the date of receipt hereof. If the Bank fails to notify the Agency of the Bank’s decision within such sixty (60) day period, the Bank shall be deemed to have rejected such request.

IN WITNESS WHEREOF, the Agency has executed and delivered this Request for Extension  
this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

MONTEREY ONE WATER (formerly known as  
Monterey Regional Water Pollution Control  
Agency)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT D**

**[FORM OF NOTICE OF EXTENSION]**

**NOTICE OF EXTENSION**

Monterey One Water  
(formerly known as Monterey Regional Water Pollution Control Agency)  
5 Harris Court, Building D  
Monterey, California 93940  
Attention: Chief Financial Officer

Ladies and Gentlemen:

We hereby notify you that pursuant to Section 2.7 of the Credit Agreement, dated April 8, 2020, by and between Monterey One Water (formerly known as Monterey Regional Water Pollution Control Agency) (the "Agency") and Bank of America, N.A. (the "Bank"), the Stated Commitment Expiration Date with respect to the Commitment as of the date hereof shall be extended to \_\_\_\_\_, \_\_\_\_\_. Your acknowledgment hereof shall be deemed to be your representation and warranty that all your representations and warranties contained in Article VI of the Agreement are true and correct and will be true and correct as of the date hereof and that no Default or Event of Default has occurred and is continuing.

IN WITNESS WHEREOF, we have executed and delivered this Notice of Extension as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BANK OF AMERICA, N.A.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Acknowledged as of \_\_\_\_\_, \_\_\_\_ by

MONTEREY ONE WATER (formerly known as  
Monterey Regional Water Pollution  
Control Agency)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT E**

**[FORM OF REQUEST FOR TERMINATION OR REDUCTION]**

**REQUEST FOR TERMINATION OR REDUCTION**

Bank of America, N.A.  
2600 W. Big Beaver Road  
Troy, MI 48084-3323  
Attention: Susan Molnar  
Email: susan.molnar@bofa.com

Bank of America, N.A.  
Attention: Scott T. Nash  
Email: scott.t.nash@bofa.com

Re: Credit Agreement dated April 8, 2020

Ladies and Gentlemen:

Monterey One Water (formerly known as Monterey Regional Water Pollution Control Agency) (the “Agency”), through its undersigned, an Authorized Representative, hereby certifies to Bank of America, N.A. (the “Bank”), with reference to the Credit Agreement dated April 8, 2020 (together with any amendments or supplements thereto, the “Agreement”) by and between the Agency and the Bank (the terms defined therein and not otherwise defined herein being used herein as therein defined):

**[(1) The Agency hereby requests a reduction of the Commitment from [insert amount as of the date of Certificate] to [insert new amount], such reduction to be effective on \_\_\_\_\_. Such reduction is in an amount equal to \$500,000 or an integral multiple of \$100,000 in excess thereof.]**

OR

**[(1) The Agency hereby requests the termination of the Commitment and the reduction of the Available Commitment to zero in accordance with the Agreement.]**

IN WITNESS WHEREOF, the Agency has executed and delivered this Request for Termination or Reduction this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

MONTEREY ONE WATER (formerly known as  
Monterey Regional Water Pollution Control  
Agency)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT F**

**[FORM OF NOTICE OF REDUCTION]**

**NOTICE OF REDUCTION**

Monterey One Water  
(formerly known as Monterey Regional Water Pollution Control Agency)  
5 Harris Court, Building D  
Monterey, California 93940  
Attention: Chief Financial Officer

Ladies and Gentlemen:

We hereby notify you that pursuant to Section 2.6(a) of the Credit Agreement, dated April 8, 2020, by and between Monterey One Water (formerly known as Monterey Regional Water Pollution Control Agency) (the "Agency") and Bank of America, N.A. (the "Bank"), the Commitment is reduced from **[insert amount as of the date of Certificate]** to **[insert new amount]**, such reduction to be effective on \_\_\_\_\_.

IN WITNESS WHEREOF, we have executed and delivered this Notice of Reduction as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BANK OF AMERICA, N.A.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT G**

**[FORM OF NOTICE OF TERMINATION AT REQUEST OF THE AGENCY]**

**NOTICE OF TERMINATION AT REQUEST OF THE AGENCY**

Monterey One Water  
(formerly known as Monterey Regional Water Pollution Control Agency)  
5 Harris Court, Building D  
Monterey, California 93940  
Attention: Chief Financial Officer

Ladies and Gentlemen:

We refer to the Credit Agreement dated April 8, 2020 (together with any amendments or supplements thereto, the “*Agreement*”) by and Monterey One Water (formerly known as Monterey Regional Water Pollution Control Agency) (the “*Agency*”) and Bank of America, N.A. (the “*Bank*”). Any term below which is defined in the Agreement shall have the same meaning when used herein.

Pursuant to Section 2.6(b) of the Agreement, we hereby notify you that:

1. The Available Commitment is hereby reduced to zero and will no longer be reinstated; and
2. The Commitment is hereby terminated and the Bank has no further obligation to make Revolving Loans under the Agreement.

IN WITNESS WHEREOF, we have executed and delivered this Notice of Termination at the Request of the Agency as of the \_\_\_ day of \_\_\_\_\_, 20\_\_.

BANK OF AMERICA, N.A.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT H**

**[FORM OF NOTICE OF TERMINATION UPON EVENT OF DEFAULT]**

**NOTICE OF TERMINATION UPON EVENT OF DEFAULT**

Monterey One Water  
(formerly known as Monterey Regional Water Pollution Control Agency)  
5 Harris Court, Building D  
Monterey, California 93940  
Attention: Chief Financial Officer

Ladies and Gentlemen:

We refer to the Credit Agreement dated April 8, 2020 (together with any amendments or supplements thereto, the “*Agreement*”) by and between Monterey One Water (formerly known as Monterey Regional Water Pollution Control Agency) (the “*Agency*”) and Bank of America, N.A. (the “*Bank*”). Any term below which is defined in the Agreement shall have the same meaning when used herein.

We hereby notify you that an Event of Default has occurred under Section \_\_\_\_ of the Agreement. As a result, unless and until you have been advised otherwise by us:

1. The Available Commitment [**has been automatically**]/[**is hereby**] reduced to \$0.00 and will no longer be reinstated; and
2. The Commitment [**has been automatically**]/[**is hereby**] terminated and the Bank has no further obligation to make Revolving Loans under the Agreement.

**[3. All amounts due under the Agreement and the Notes are immediately due and payable.]**

IN WITNESS WHEREOF, we have executed and delivered this Notice of Termination Upon Event of Default as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BANK OF AMERICA, N.A.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**EXHIBIT I**

**[FORM OF NOTICE OF PREPAYMENT]**

**NOTICE OF PREPAYMENT**

Bank of America, N.A.  
2600 W. Big Beaver Road  
Troy, MI 48084-3323  
Attention: Susan Molnar  
Email: susan.molnar@bofa.com

Bank of America, N.A.  
Attention: Scott T. Nash  
Email: scott.t.nash@bofa.com

Re: Credit Agreement dated April 8, 2020

Ladies and Gentlemen:

Monterey One Water (formerly known as Monterey Regional Water Pollution Control Agency) (the “Agency”), through its undersigned, an Authorized Representative, hereby certifies to Bank of America, N.A. (the “Bank”), with reference to the Credit Agreement dated April 8, 2020 (together with any amendments or supplements thereto, the “Agreement”) by and between the Agency and the Bank (the terms defined therein and not otherwise defined herein being used herein as therein defined):

The Agency hereby informs you that the Agency intends to prepay Revolving Loan(s) designated as a **[Taxable Revolving Loan] / [Tax-Exempt Revolving Loan] / [Tax-Exempt SIFMA Rate Loan]** in an aggregate principal amount of \$ \_\_\_\_\_ **[insert prepayment amount]** on \_\_\_\_\_, which date is at least one (1) Business Day following the date of this notice of prepayment, and in the case of any Revolving Loan designated as a Taxable Revolving Loan or a Tax-Exempt Revolving Loan, such prepayment occurs on the final Business Day of the then applicable Interest Period to which such prepayment will be applied or if paid on a day other than the final Business Day of the then applicable Interest Period, and in the case of any Revolving Loan designated as a Tax-Exempt SIFMA Rate Loan, such prepayment occurs on the final Business Day of the then applicable SIFMA Accrual Period, such prepayment includes any costs to the Bank arising under Section 5.3 of the Agreement. Accrued interest on all prepayments of principal to the Prepayment Date shall be payable on the earlier of the Revolving Loan Maturity Date or the Quarterly Payment Date next following the Prepayment Date.

IN WITNESS WHEREOF, the Agency has executed and delivered this Notice of Prepayment  
this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

MONTEREY ONE WATER (formerly known as  
Monterey Regional Water Pollution Control  
Agency)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT J**

**FORM OF COMPLIANCE CERTIFICATE**

Financial Statement Date: \_\_\_\_\_, \_\_\_\_\_

To: Bank of America, N.A.  
2600 W. Big Beaver Road  
Troy, MI 48084-3323  
Attention: Susan Molnar  
Email: susan.molnar@bofa.com

Ladies and Gentlemen:

Reference is made to that certain Credit Agreement, dated April 8, 2020 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the “*Agreement*,” the terms defined therein being used herein as therein defined), between MONTEREY ONE WATER (formerly known as Monterey Regional Water Pollution Control Agency) (the “*Agency*”), and Bank of America, N.A., (the “*Bank*”).

The undersigned Authorized Representative hereby certifies as of the date hereof that he/she is the \_\_\_\_\_ of the Agency, and that, as such, he/she is authorized to execute and deliver this Certificate to the Bank on the behalf of the Agency, and that:

1. Attached hereto as Schedule 1 are the year-end audited financial statements required by Section 7.2(a)(i) of the Agreement for the fiscal year of the Agency ended as of the above date, together with the report and opinion of an independent certified public accountant required by such section.

2. The undersigned has reviewed and is familiar with the terms of the Agreement and has made, or has caused to be made under his/her supervision, a detailed review of the transactions and condition (financial or otherwise) of the Agency during the accounting period covered by the attached financial statements.

3. A review of the activities of the Agency during such fiscal period has been made under the supervision of the undersigned with a view to determining whether during such fiscal period the Agency performed and observed all its Payment Obligations under the Agreement and the Notes, and

**[select one:]**

**[to the best knowledge of the undersigned during such fiscal period, the Agency performed and observed each covenant and condition of the Agreement, the Notes and the Resolution applicable to it, and no Default has occurred and is continuing.]**

--or--

**[the following covenants or conditions have not been performed or observed and the following is a list of each such Default and its nature and status:]**

4. The representations and warranties of the Agency contained in Article VI of the Agreement, and/or any representations and warranties of the Agency that are contained in any document furnished at any time under or in connection with the Agreement, the Notes and the Resolution, are true and correct on and as of the date hereof, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, and except that for purposes of this Compliance Certificate, the representations and warranties contained in Section 6.1(n) of the Agreement shall be deemed to refer to the most recent statements furnished pursuant to Section 7.2(a)(i) of the Agreement, including the statements in connection with which this Compliance Certificate is delivered.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of \_\_\_\_\_,  
\_\_\_\_\_.

MONTEREY ONE WATER (formerly known as  
Monterey Regional Water Pollution Control  
Agency)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_