

ESCROW AGREEMENT (SERIES 2007B)

THIS ESCROW AGREEMENT (SERIES 2007B), dated as of November 1, 2019 (the “Agreement”), by and between the Santa Clara Valley Water District (the “District”) and U.S. Bank National Association, San Francisco, California, as escrow agent (the “Escrow Agent”), is entered into in accordance with Resolution No. 19-__ adopted on November 12, 2019 by the Board of Directors of the District, the Indenture of Trust dated as of November 1, 2019 (the “Indenture”), by and between the District and U.S. Bank National Association, as trustee (the “Trustee”), and the Trust Agreement dated as of September 1, 2007 (the “2007B Trust Agreement”), by and among the District, the Santa Clara Valley Water District Public Facilities Financing Corporation (the “Corporation”) and U.S. Bank National Association, as trustee (the “2007B Trustee”), to refund the District’s outstanding Revenue Certificates of Participation (Water Utility System Improvement Projects), Taxable Series 2007B (the “2007B Certificates”).

WITNESSETH:

WHEREAS, the District previously authorized the execution and delivery of the 2007B Certificates pursuant to the 2007B Trust Agreement;

WHEREAS, the District has determined that a portion of the proceeds of the \$_____ aggregate principal amount of the Santa Clara Valley Water District Water System Refunding Revenue Bonds, Taxable Series 2019C (the “Bonds”) issued pursuant to the Resolution and the Indenture, together with funds transferred from the District, will be used to provide the funds to pay on December 1, 2019, the regularly scheduled payments of interest and principal with respect to the 2007B Certificates, and to prepay on December 1, 2019 the principal with respect to the 2007B Certificates maturing on June 1, 2037, without premium (the “Prepayment Price”); and

WHEREAS, the District irrevocably deposits with the Escrow Agent moneys as set forth herein (as permitted by, in the manner prescribed by, and all in accordance with the 2007B Trust Agreement), which moneys will be fully sufficient to pay and discharge the 2007B Certificates, without regard to any investment earnings thereon;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the District and the Escrow Agent agree as follows:

SECTION 1. Deposit of Moneys. The Escrow Agent hereby acknowledges receipt of \$_____ from the Trustee from a portion of the net proceeds of the sale of the Bonds and \$_____ of funds transferred from the District. The District hereby instructs the Escrow Agent to deposit the foregoing amounts into the Escrow Fund established hereunder.

The Escrow Agent shall hold all such amounts in irrevocable escrow separate and apart from other funds of the District and the Escrow Agent in a fund hereby created and established to be known as the “Escrow Fund” and to be applied solely as provided in this Agreement. The Escrow Agent shall hold the moneys in the Escrow Fund uninvested as cash.

SECTION 2. Payment of 2007B Certificates.

(a) **Payment.** From the moneys on deposit in the Escrow Fund, the Escrow Agent shall on December 1, 2019, pay the regularly scheduled payment of interest and principal with

respect to the 2007B Certificates, and pay on December 1, 2019 the Prepayment Price of the 2007B Certificates maturing on June 1, 2037.

(b) Irrevocable Instructions to Provide Notice. The forms of the notice required to be mailed pursuant to Sections 3.04 and 10.01 of the 2007B Trust Agreement are substantially in the forms attached hereto as Exhibits A and B. The Escrow Agent hereby confirms that the prepayment notice substantially in the form attached hereto as Exhibit A has been given in accordance with Section 3.04 of the 2007B Trust Agreement and to National Public Finance Guarantee Corporation, as the current insurer of the 2007B Certificates, in accordance with Section 11.14 of the 2007B Trust Agreement. The District hereby irrevocably instructs the Escrow Agent to give a notice of defeasance of the 2007B Certificates in substantially the form attached hereto as Exhibit B in accordance with Section 10.01 of the 2007B Trust Agreement and to file such notice with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access System, maintained on the Internet at <http://emma.msrb.org/> on November __, 2019. The District further instructs the Escrow Agent to provide such notice of defeasance to National Public Finance Guarantee Corporation, as the current insurer of the 2007B Certificates, in accordance with Section 11.14 of the 2007B Trust Agreement.

(c) Unclaimed Moneys. Any moneys which remain unclaimed for ninety days after December 1, 2019 shall be transferred by the Escrow Agent to the State of California (the "State") and shall be subject to the escheat laws of the State.

(d) Priority of Payments. The owners of the 2007B Certificates shall have a first and exclusive lien on all moneys in the Escrow Fund until such moneys are used and applied as provided in this Agreement.

(e) Termination of Obligation. As provided in the 2007B Trust Agreement, upon deposit of moneys with the Escrow Agent in the Escrow Fund as set forth in Section 1 hereof, all agreements, covenants and other obligations of the District and the Corporation under the 2007B Trust Agreement to the owners of the 2007B Certificates under the 2007B Trust Agreement shall cease, terminate and become void and be discharged and satisfied. As provided in Section 9.1 of the Installment Purchase Agreement, dated as of September 1, 2007 (the "2007B Installment Purchase Agreement"), by and between the District and the Corporation, the obligations of the District under the 2007B Installment Purchase Agreement shall cease, terminate, become void and be discharged and satisfied.

SECTION 3. Application of Certain Terms of the 2007B Trust Agreement. All of the terms of the 2007B Trust Agreement relating to the making of payments of principal and interest with respect to the 2007B Certificates and relating to the exchange or transfer of the 2007B Certificates are incorporated in this Agreement as if set forth in full herein. The procedures set forth in Section 8.3 of the 2007B Trust Agreement relating to the resignation and removal and merger of the 2007B Trustee under the 2007B Trust Agreement are also incorporated in this Agreement as if set forth in full herein and shall be the procedures to be followed with respect to any resignation or removal of the Escrow Agent hereunder.

SECTION 4. Performance of Duties. The Escrow Agent agrees to perform only the duties set forth herein and shall have no responsibility to take any action or omit to take any action not set forth herein.

SECTION 5. Escrow Agent's Authority to Make Investments. The Escrow Agent shall have no power or duty to invest any funds held under this Agreement or to sell, transfer or otherwise dispose of the moneys held hereunder.

SECTION 6. Indemnity. The District hereby assumes liability for, and hereby agrees (whether or not any of the transactions contemplated hereby are consummated) to indemnify, protect, save and keep harmless the Escrow Agent and its respective successors, assigns, agents, employees and servants, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including reasonable legal fees and disbursements) of whatsoever kind and nature which may be imposed on, incurred by, or asserted against, the Escrow Agent at any time (whether or not also indemnified against the same by the District or any other person under any other agreement or instrument, but without double indemnity) in any way relating to or arising out of the execution, delivery and performance of this Agreement, the establishment hereunder of the Escrow Fund, the acceptance of the funds deposited therein and any payment, transfer or other application of moneys by the Escrow Agent in accordance with the provisions of this Agreement; provided, however, that the District shall not be required to indemnify the Escrow Agent against the Escrow Agent's own negligence or willful misconduct or the negligence or willful misconduct of the Escrow Agent's respective employees or the willful breach by the Escrow Agent of the terms of this Agreement. In no event shall the District or the Escrow Agent be liable to any person by reason of the transactions contemplated hereby other than to each other as set forth in this Section. The indemnities contained in this Section shall survive the termination of this Agreement.

SECTION 7. Responsibilities of Escrow Agent. The Escrow Agent and its agents and servants shall not be held to any personal liability whatsoever, in tort, contract, or otherwise, in connection with the execution and delivery of this Agreement, the establishment of the Escrow Fund, the acceptance of the moneys deposited therein, or any payment, transfer or other application of moneys by the Escrow Agent in accordance with the provisions of this Agreement or by reason of any non-negligent act, non-negligent omission or non-negligent error of the Escrow Agent made in good faith in the conduct of its duties. The recitals of fact contained in the "Whereas" clauses herein shall be taken as the statements of the District, and the Escrow Agent assumes no responsibility for the correctness thereof. The Escrow Agent makes no representation as to the sufficiency of the funds deposited in the Escrow Fund to accomplish the refunding of the 2007B Certificates or to the validity of this Agreement as to the District and, except as otherwise provided herein, the Escrow Agent shall incur no liability in respect thereof. The Escrow Agent shall not be liable in connection with the performance of its duties under this Agreement except for its own negligence, willful misconduct or default, and the duties and obligations of the Escrow Agent shall be determined by the express provisions of this Agreement. The Escrow Agent may consult with counsel, who may or may not be counsel to the District, and in reliance upon the written opinion of such counsel shall have full and complete authorization and protection in respect of any action taken, suffered or omitted by it in good faith in accordance therewith. Whenever the Escrow Agent shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering, or omitting any action under this Agreement, such matter may be deemed to be conclusively established by a certificate signed by an officer of the District.

SECTION 8. Amendments. This Agreement is made for the benefit of the District and the owners from time to time of the 2007B Certificates and it shall not be repealed, revoked, altered or amended without the written consent of all such owners, the Escrow Agent and the District; provided, however, that the District and the Escrow Agent may, without the consent of, or notice to,

such owners, amend this Agreement or enter into such agreements supplemental to this Agreement as shall not adversely affect the rights of such owners and as shall not be inconsistent with the terms and provisions of this Agreement, the Law (as such term is defined in the 2007B Installment Purchase Agreement), or the 2007B Trust Agreement, for any one or more of the following purposes: (i) to cure any ambiguity or formal defect or omission in this Agreement; (ii) to grant to, or confer upon, the Escrow Agent for the benefit of the owners of the 2007B Certificates, any additional rights, remedies, powers or authority that may lawfully be granted to, or conferred upon, such owners or the Escrow Agent; and (iii) to include under this Agreement additional funds. The Escrow Agent shall be entitled to rely conclusively upon an unqualified opinion of Stradling Yocca Carlson & Rauth, A Professional Corporation, with respect to compliance with this Section, including the extent, if any, to which any change, modification, addition or elimination affects the rights of the owners of the various 2007B Certificates or that any instrument executed hereunder complies with the conditions and provisions of this Section.

SECTION 9. Term. This Agreement shall commence upon its execution and delivery and shall terminate on the later to occur of either: (i) the date upon which the 2007B Certificates have been paid in accordance with this Agreement; or (ii) the date upon which no unclaimed moneys remain on deposit with the Escrow Agent pursuant to Section 2(c) of this Agreement.

SECTION 10. Compensation. The Escrow Agent shall receive its reasonable fees and expenses as previously agreed to by the Escrow Agent and the District and any other reasonable fees and expenses of the Escrow Agent approved by the District; provided, however, that under no circumstances shall the Escrow Agent be entitled to any lien or assert any lien whatsoever on any moneys in the Escrow Fund for the payment of fees and expenses for services rendered or expenses incurred by the Escrow Agent under this Agreement.

SECTION 11. Severability. If any one or more of the covenants or agreements provided in this Agreement on the part of the District or the Escrow Agent to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenants or agreements shall be null and void and shall be deemed separate from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

SECTION 12. Counterparts. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as an original but all of which shall constitute and be but one and the same instrument.

SECTION 13. Governing Law. THIS AGREEMENT SHALL BE CONSTRUED UNDER THE LAWS OF THE STATE OF CALIFORNIA.

SECTION 14. Insufficient Funds. If at any time the Escrow Agent has actual knowledge that the moneys in the Escrow Fund will not be sufficient to make all payments required by this Agreement, the Escrow Agent shall notify the District in writing, of the amount thereof and the reason therefor to the extent known to it. The Escrow Agent shall have no responsibility regarding any such deficiency.

SECTION 15. Notice to District and Escrow Agent. Any notice to or demand upon the Escrow Agent may be served or presented, and such demand may be made, at the principal corporate trust office of the Escrow Agent at U.S. Bank National Association, One California Street, Suite 1000, San Francisco, California 94111, Attention: Global Corporate Trust Services, Reference: Santa

Clara Valley Water District, Series 2007B. Any notice to or demand upon the District shall be deemed to have been sufficiently given or served for all purposes by being mailed by registered or certified mail, and deposited, postage prepaid, in a post office letter box, addressed to the District at Santa Clara Valley Water District, 5750 Almaden Expressway, San Jose, California 95118, Attention: Treasury/Debt Officer (or such other address as may have been filed in writing by the District with the Escrow Agent).

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

SANTA CLARA VALLEY WATER DISTRICT

Authorized Officer

U.S. BANK NATIONAL ASSOCIATION,
as Escrow Agent

By: _____
Authorized Officer

EXHIBIT A

CONDITIONAL NOTICE OF PREPAYMENT

SANTA CLARA VALLEY WATER DISTRICT
REVENUE CERTIFICATES OF PARTICIPATION
(WATER UTILITY SYSTEM IMPROVEMENT PROJECTS), TAXABLE SERIES 2007B

BASE CUSIP NO. 80168F

NOTICE IS HEREBY GIVEN to the owners of the above-captioned Certificates (the "Certificates") pursuant to the Trust Agreement, dated as of September 1, 2007 (the "2007B Trust Agreement"), by and among the Santa Clara Valley Water District (the "District"), the Santa Clara Valley Water District Public Facilities Financing Corporation and U.S. Bank National Association, as trustee (the "2007B Trustee"), that the Certificates set forth below in the aggregate principal amount of \$_____ have been conditionally called for prepayment on December 1, 2019 (the "Prepayment Date").

<u>CUSIP</u>	<u>MATURITY</u> <u>(June 1)</u>	<u>RATE</u>	<u>AMOUNT</u>	<u>PRICE</u>
KR6	2037	Variable	\$_____	100%

Provided that the proceeds of the District's Water System Refunding Revenue Bonds, Taxable Series 2019C (the "Refunding Bonds") and other District funds sufficient to prepay the Certificates are on deposit with the 2007B Trustee prior to the Prepayment Date, the Certificates will be payable on the Prepayment Date at a prepayment price of 100% of the principal amount plus accrued interest to such date (the "Prepayment Price"). The Prepayment Price of the Certificates will become due and payable on the Prepayment Date. Interest with respect to the Certificates to be prepaid will cease to accrue on and after the Prepayment Date, and such Certificates will be surrendered to the 2007B Trustee.

The optional prepayment of the Certificates is conditioned upon the 2007B Trustee's receipt on or prior to the Prepayment Date of proceeds of the Refunding Bonds, together with certain other funds, sufficient to pay the Prepayment Price (as defined below). If such moneys shall not have been so received, this Conditional Notice of Prepayment will be of no force and effect and the prepayment shall not be made and the 2007B Trustee will give notice that the prepayment is cancelled.

All Certificates are required to be surrendered to the principal corporate office of the 2007B Trustee, on the Prepayment Date at the following location. If the Certificates are mailed, the use of registered, insured mail is recommended:

U.S. Bank National Association
Global Corporate Trust Services
111 Fillmore Avenue E
St. Paul, Minnesota 55107
Reference: Santa Clara Valley Water District, Series 2007B

If the Owner of any Certificate subject to optional prepayment fails to deliver such Certificate to the 2007B Trustee on the Prepayment Date, such Certificate shall nevertheless be deemed prepaid on the Prepayment Date and the Owner of such Certificate shall have no rights in respect thereof except to receive payment of the Prepayment Price from funds held by the 2007B Trustee for such payment.

Federal law requires the 2007B Trustee to withhold taxes at the applicable rate from the payment if an IRS Form W-9 or applicable IRS Form W-8 is not provided. Please visit www.irs.gov for additional information on the tax forms and instructions.

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

DATED this [1st day of November], 2019.

EXHIBIT B

NOTICE OF DEFEASANCE

SANTA CLARA VALLEY WATER DISTRICT
REVENUE CERTIFICATES OF PARTICIPATION
(WATER UTILITY SYSTEM IMPROVEMENT PROJECTS), TAXABLE SERIES 2007B

BASE CUSIP NO. 80168F

NOTICE IS HEREBY GIVEN to the owners of the above-captioned certificates of participation (the “2007B Certificates”) that the Santa Clara Valley Water District (the “District”), has deposited with U.S. Bank National Association, as trustee (the “2007B Trustee”) under the Trust Agreement, dated as of September 1, 2007 (the “2007B Trust Agreement”), by and among the District, the Santa Clara Valley Water District Public Facilities Financing Corporation (the “Corporation”) and the 2007B Trustee, cash sufficient to pay on December 1, 2019 the regularly scheduled payment of interest and principal with respect to the 2007B Certificates, and to prepay on December 1, 2019, the principal with respect to the 2007B Certificates maturing on June 1, 2037.

The 2007B Certificates to be defeased are as follows:

<u>CUSIP</u>	<u>MATURITY</u> <u>(June 1)</u>	<u>RATE</u>	<u>AMOUNT</u>	<u>PRICE</u>
KR6	2037	Variable	\$_____	100%

In accordance with the 2007B Trust Agreement, the 2007B Certificates are deemed to have been paid in accordance with Section 10.01 thereof and the covenants, agreements and other obligations of the District and the Corporation under the 2007B Trust Agreement and the Installment Purchase Agreement, dated as of September 1, 2007, by and between the District and the Corporation, with respect to the 2007B Certificates shall thereupon cease, terminate and become void and be discharged and satisfied.

DATED this 1st day of November, 2019.

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