
CERTIFICATE PURCHASE AND REIMBURSEMENT AGREEMENT

Dated as of October 1, 2020

by and among

SANTA CLARA VALLEY WATER DISTRICT PUBLIC
FACILITIES FINANCING CORPORATION,

SANTA CLARA VALLEY WATER DISTRICT,

THE LENDERS

and

U.S. BANK NATIONAL ASSOCIATION,
AS ADMINISTRATIVE AGENT AND SOLE LEAD ARRANGER,

Relating to

[\$170,000,000]

Santa Clara Valley Water District Revolving Certificates,
Series C (Tax-Exempt) and Series D (Taxable)

TABLE OF CONTENTS

ARTICLE I	DEFINITIONS AND ACCOUNTING TERMS	5
SECTION 1.01.	Defined Terms	5
SECTION 1.02.	Other Interpretive Provisions	28
SECTION 1.03.	Accounting Terms.....	29
SECTION 1.04.	Rounding of Financial Ratios	29
SECTION 1.05.	Times of Day.....	29
SECTION 1.06.	Incorporated Agreement Provisions	29
SECTION 1.07.	LIBOR Notification	30
ARTICLE II	SALE AND PURCHASE; TERM LOANS; CLOSING	30
SECTION 2.01.	Purchase and Sale of Certificates.....	30
SECTION 2.02.	Closing	31
SECTION 2.03.	Method of Purchase	32
SECTION 2.04.	Interest Rates with respect to Certificates.....	33
SECTION 2.05.	Payment of Interest and Principal with respect to Certificates	33
SECTION 2.06.	Term Loans	34
SECTION 2.07.	General Interest Rate and Payment Provisions.....	35
SECTION 2.08.	Commitment Fee; Fee Letter	36
SECTION 2.09.	Reduction and Termination.....	36
SECTION 2.10.	Taxability	37
SECTION 2.11.	Funding Indemnity.....	38
SECTION 2.12.	Extension of Commitment Expiration Date.....	38
SECTION 2.13.	Security	38
SECTION 2.14.	Availability of LIBOR Rate; Adequacy of Interest Rate.....	39
SECTION 2.15.	Notification of Purchase of Certificates; Interest Rates, Prepayments and Commitment Reductions.....	41
SECTION 2.16.	Non-Receipt of Funds by the Administrative Agent	41
SECTION 2.17.	Sharing of Payments	42
SECTION 2.18.	Defaulting Lenders.....	42
SECTION 2.19.	Incremental Commitments.....	44
ARTICLE III	TAXES AND YIELD PROTECTION AND ILLEGALITY	46
SECTION 3.01.	Net of Taxes, Etc.....	46
SECTION 3.02.	Increased Costs	47
SECTION 3.03.	Margin Regulations.....	49
SECTION 3.04.	Maximum Rate; Payment of Fee	49
SECTION 3.05.	Illegality	49
SECTION 3.06.	Survival.....	50
ARTICLE IV	CONDITIONS PRECEDENT	50

SECTION 4.01.	Conditions Precedent to Effectiveness.....	50
SECTION 4.02.	Conditions Precedent Purchases	53
SECTION 4.03.	No Certificate Rating; DTC; Offering Document	54
ARTICLE V REPRESENTATIONS AND WARRANTIES.....		54
SECTION 5.01.	Representations of Valley Water.....	54
SECTION 5.02.	Representations of Corporation	59
ARTICLE VI	AFFIRMATIVE COVENANTS.....	61
SECTION 6.01.	Financial Records.....	62
SECTION 6.02.	Notice of Default.....	63
SECTION 6.03.	Budgets	63
SECTION 6.04.	Reports to Trustees	63
SECTION 6.05.	Other Information	64
SECTION 6.06.	Compliance with Obligations and Laws	64
SECTION 6.07.	Litigation.....	64
SECTION 6.08.	Licenses, Permits, Etc.	64
SECTION 6.09.	Books and Records	65
SECTION 6.10.	Use of Proceeds.....	65
SECTION 6.11.	Maintenance of Existence	65
SECTION 6.12.	Notice of Material Adverse Change	65
SECTION 6.13.	Trustee and Paying Agent.....	65
SECTION 6.14.	Other Matters	66
SECTION 6.15.	Maintenance of Insurance	66
SECTION 6.16.	Investments	66
SECTION 6.17.	Alternate Financing.....	66
SECTION 6.18.	Incorporation by Reference.....	66
SECTION 6.19.	Security Interests.....	67
SECTION 6.20.	Financial Covenants.....	67
SECTION 6.21.	Ratings	68
SECTION 6.22.	Other Agreements	68
SECTION 6.23.	Anti-Money Laundering Compliance	68
ARTICLE VII	NEGATIVE COVENANTS	69
SECTION 7.01.	Amendments	69
SECTION 7.02.	Arbitrage; Margin Stock	69
SECTION 7.03.	Trustee; Paying Agent.....	69
SECTION 7.04.	Compliance with Laws	69
SECTION 7.05.	Bank Information	69
SECTION 7.06.	Immunity from Jurisdiction	70
SECTION 7.07.	Subordinate Obligations.....	70
SECTION 7.08.	Investment Policy.....	70
SECTION 7.09.	Liens.....	70
SECTION 7.10.	Application of Certificate Proceeds	70
SECTION 7.11.	Swap Termination Payments	70

SECTION 7.12.	Amendments	70
ARTICLE VIII	EVENTS OF DEFAULT AND REMEDIES	70
SECTION 8.01.	Events of Default and Remedies	70
SECTION 8.02.	Remedies	73
SECTION 8.03.	Application of Funds	75
ARTICLE IX	THE ADMINISTRATIVE AGENT	75
SECTION 9.01.	Appointment and Authority	75
SECTION 9.02.	Rights as a Lender	76
SECTION 9.03.	Exculpatory Provisions	76
SECTION 9.04.	Reliance by Administrative Agent	77
SECTION 9.05.	Delegation of Duties	77
SECTION 9.06.	Resignation of Administrative Agent	78
SECTION 9.07.	Non-Reliance on Agents and Other Lenders	79
SECTION 9.08.	No Other Duties	79
SECTION 9.09.	Administrative Agent May File Proofs of Claim	79
SECTION 9.10.	Execution of and Direction Under Certain Related Documents	79
SECTION 9.11.	Certain ERISA Matters	80
ARTICLE X	MISCELLANEOUS	81
SECTION 10.01.	Amendments, Etc.	81
SECTION 10.02.	Notices; Effectiveness; Electronic Communication	82
SECTION 10.03.	No Waiver; Cumulative Remedies; Enforcement; Conflict	84
SECTION 10.04.	Liability of the Bank; Indemnification	84
SECTION 10.05.	Payments Set Aside	85
SECTION 10.06.	Successors and Assigns	85
SECTION 10.07.	Counterparts; Integration; Effectiveness	88
SECTION 10.08.	Survival of Representations and Warranties	88
SECTION 10.09.	Severability	89
SECTION 10.10.	Governing Law	89
SECTION 10.11.	Waiver of Jury Trial	89
SECTION 10.12.	No Advisory or Fiduciary Responsibility	91
SECTION 10.13.	Electronic Execution of Assignments and Certain Other Documents; Document Imaging; Telecopy and PDF Signatures	91
SECTION 10.14.	Government Regulations	92
SECTION 10.15.	Unconditional Obligations	92
SECTION 10.16.	Expenses and Taxes	93
SECTION 10.17.	Modification, Amendment, Waiver, Etc.	93
SECTION 10.18.	Dealing with Valley Water, the Corporation, the Trustee and/or the Paying Agent	94
SECTION 10.19.	Table of Contents; Headings	94
SECTION 10.20.	Right of Setoff; Other Collateral	94
SECTION 10.21.	EMMA Postings	94
SECTION 10.22.	Acknowledgement Regarding Any Supported QFCs	95

SECTION 10.23. Several Obligations95

SCHEDULE I	Certain Addresses For Notices
SCHEDULE II	Commitments
EXHIBIT A	Form of Request for Purchase
EXHIBIT B	Form of Request for Extension
EXHIBIT C	Form of Notice of Termination or Reduction
EXHIBIT D	Form of Notice of Reduction
EXHIBIT E	Form of Notice of Extension
EXHIBIT F	Purchaser Letter
EXHIBIT G	Form Compliance Certificate
EXHIBIT H	Form of Lender Note
EXHIBIT I	Tax-Exempt TRAN
EXHIBIT J	Taxable TRAN

CERTIFICATE PURCHASE AND REIMBURSEMENT AGREEMENT

This CERTIFICATE PURCHASE AND REIMBURSEMENT AGREEMENT dated as of October 1, 2020 (as amended, modified or restated from time to time, this “*Agreement*”), is entered into among the SANTA CLARA VALLEY WATER DISTRICT (“*Valley Water*”), the SANTA CLARA VALLEY WATER DISTRICT PUBLIC FACILITIES FINANCING CORPORATION (the “*Corporation*”), the LENDERS (as defined herein) and U.S. BANK NATIONAL ASSOCIATION and its successors and permitted assigns, as administrative agent (the “*Administrative Agent*”) and as sole lead arranger (the “*Arranger*”).

RECITALS

Valley Water and the Corporation have requested that the Lenders agree to purchase Certificates and extend Term Loans from time to time, and the Lenders have agreed to such request on the terms and conditions of this Agreement.

Now, THEREFORE, in consideration of the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

SECTION 1.01. *Defined Terms.* As used in this Agreement, the following terms shall have the meanings set forth below:

“*1933 Act*” means the Securities Act of 1933, as amended.

“*Administrative Agent*” means U.S. Bank National Association, a national banking association, and its successors and assigns.

“*Affiliate*” means, with respect to a Person, any Person (whether for-profit or not-for-profit), which “controls,” or is “controlled” by, or is under common “control” with such Person. For purposes of this definition, a Person “controls” another Person when the first Person possesses or exercises directly, or indirectly through one or more other affiliates or related entities, the power to direct the management and policies of the other Person, whether through the ownership of voting rights, membership, the power to appoint members, trustees or directors, by contract, or otherwise.

“*Agreement*” has the meaning set forth in the introductory paragraph hereof.

“*Anti-Corruption Laws*” means the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder, and any other anti-corruption law applicable to Valley Water or the Corporation, as applicable.

“*Applicable Factor*” means 85%.

“*Applicable Law*” means, as to any Person, all applicable Laws binding upon such Person or to which such a Person is subject.

“*Applicable Percentage*” means, with respect to any Lender, the percentage of the total Commitment represented by such Lender’s Commitment. If the Available Commitment has terminated or expired, the Applicable Percentages shall be determined based upon the Commitment most recently in effect, giving effect to any assignments.

“*Approving Opinion*” means, with respect to any action relating to Tax-Exempt Certificates, an opinion delivered by Bond Counsel to the effect that such action (i) is permitted by the Corporation Resolution (or, if applicable, another Related Document) and (ii) will not adversely affect the exclusion of interest with respect to such Tax-Exempt Certificates from gross income of the Lenders for purposes of federal or California state income taxation.

“*Authorized Officer*” means each of the Chief Executive Officer, the Chief Financial Officer or the Treasury and Debt Officer of Valley Water (including any interim, acting or otherwise appointed such officer) or the designee of any such officer.

“*Available Commitment*” means, on any date, \$170,000,000, adjusted as follows: (a) downward in an amount equal to the aggregate principal amount of any Certificates purchased by the Lenders pursuant to the terms hereof; (b) upward in an amount equal to the aggregate principal amount of any Certificates paid by Valley Water (without the proceeds of a Term Loan) pursuant to the terms of Section 2.05 hereof; and (c) upward in an amount equal to any Incremental Commitment in accordance with Section 2.19 hereof; *provided, that*, after giving effect to any of the foregoing adjustments the Available Commitment shall never exceed \$200,000,000; *provided further* that the Available Commitment with respect to each Lender shall be limited to its respective Applicable Percentage.

“*Bank Agreement*” means any credit agreement, liquidity agreement, standby bond purchase agreement, reimbursement agreement, direct purchase agreement, bond purchase agreement, or other agreement or instrument (or any amendment, supplement or other modification thereof) under which, directly or indirectly, any Person or Persons undertake(s) to make or provide funds to make payment of, or to purchase or provide credit enhancement for any Subordinate Obligation; *provided, however*, that the Bank Agreement shall not include any such agreement or instrument with **[describe eligible Community Banks]**, so long as such agreement or instrument with an **[eligible Community Bank]** is unsecured and does not provide for any contractual remedies.

“*Base Rate*” means, for any day, a fluctuating rate of interest per annum equal to the greatest of (i) the Prime Rate in effect for such day plus one percent (1.0%), (ii) the Federal Funds Rate in effect for such day plus two percent (2.0%), and (iii) seven percent (7.0%).

“*Benchmark Replacement*” means the sum of: (a) an alternative benchmark rate that has been selected by the Administrative Agent in consultation with Valley Water giving due

consideration to (i) any selection or recommendation of a replacement rate or the mechanism for determining such a rate by the Relevant Governmental Body and (ii) any evolving or then-prevailing market convention for determining a rate of interest as a replacement to LIBOR for U.S. syndicated credit facilities denominated in Dollars that are reasonably comparable to the credit facilities under this Agreement and (b) the Benchmark Replacement Adjustment (it being agreed that the intent as of the date that a Benchmark Replacement is initially implemented is to approximate the Administrative Agent's offering of interest rates bearing interest with reference to LIBOR plus the Tax-Exempt Applicable Spread or the Taxable Applicable Spread, as the case may be, as closely as reasonably practical as of such date of initial implementation (and, for certainty, not necessarily thereafter)); *provided* that, if the Benchmark Replacement as so determined would be less than 0.15%, the Benchmark Replacement will be deemed to be 0.15% for the purposes of this Agreement.

“Benchmark Replacement Adjustment” means, with respect to any replacement under this Agreement of LIBOR with an alternative benchmark rate, for each applicable Interest Period, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent in consultation with Valley Water giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of LIBOR with an alternative benchmark rate by the Relevant Governmental Body and (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of LIBOR with an alternative benchmark rate at such time for U.S. syndicated credit facilities denominated in Dollars that are reasonably comparable to the credit facilities under this Agreement, which adjustment or method for calculating or determining such spread adjustment pursuant to clause (b) is published on an information service as selected by the Administrative Agent from time to time and as may be updated periodically.

“Benchmark Replacement Conforming Changes” means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Interest Period,” timing and frequency of determining rates and making payments of interest and other administrative matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with then-prevailing market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of the Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement).

“Benchmark Replacement Date” means the earliest to occur of the following events with respect to LIBOR:

- (a) in the case of clauses (ii), (iii) or (iv) of Section 2.14(b), the later of:

(i) the date of the public statement or publication of information referenced therein and

(ii) the date on which the administrator of LIBOR permanently or indefinitely ceases to provide LIBOR;

(b) in the case of clause (i) of Section 2.14(b), the earlier of

(i) the date of the public statement or publication of information referenced therein; and

(ii) the date specified by the Administrative Agent or the Required Lenders, as applicable, by notice to Valley Water, the Administrative Agent (in the case of such determination and notice by the Required Lenders) and the Lenders; or

(c) in the case of clause (v) of Section 2.14(b), the date specified by the Administrative Agent or the Required Lenders, as applicable, by notice to Valley Water, the Administrative Agent (in the case of such determination and notice by the Required Lenders) and the Lenders.

“*Benchmark Transition Event*” is defined in Section 2.14(b).

“*Benchmark Unavailability Period*” means, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to LIBOR and solely to the extent that the LIBOR Rate has not been replaced hereunder with a Benchmark Replacement, the period (y) beginning at the time that such Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the LIBOR Rate for all purposes under this Agreement and the other Related Documents in accordance with Section 2.14(b) and (z) ending at the time that a Benchmark Replacement has replaced the LIBOR Rate for all purposes under this Agreement and the other Related Documents pursuant to Section 2.14(b).

“*Benefit Plan*” means any of (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in and subject to Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan.”

“*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.

“*Bond Counsel*” means the law firm of Stradling Yocca Carlson & Rauth, a Professional Corporation, or any nationally recognized bond counsel selected by Valley Water and acceptable to the Administrative Agent.

“*Bonds*” has the meaning set forth in the Parity Master Resolution.

“*Budgeted Subordinate Lien Debt Service Coverage Ratio*” means the ratio of (1) Net Water Utility System Revenues for the following Fiscal Year as reflected in the annual operating budget of Valley Water that has been delivered to the Administrative Agent pursuant to Section 6.03 hereof remaining after making all of the required transfers and payments from the Water Utility System Revenue Fund pursuant to subsections (a), (b), (c), (d) and (e) of Section 2.2 of the Parity Master Resolution for such Fiscal Year, to (2) total Subordinate Debt Service for such Fiscal Year.

“*Business Day*” means a day on which (a) banks located in San Francisco, California, in New York, New York and in each of the cities in which the principal offices of the Trustee and Paying Agent and the Administrative Agent are located and the office of the Administrative Agent at which requests for purchases hereunder are to be presented is located (initially, _____) are not required or authorized by law or executive order to close for business, and (b) The New York Stock Exchange is not closed.

“*Capital Lease Obligations*” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

“*Certificates*” has the meaning specified in Section 2.01(a) hereof.

“*Change in Law*” means the occurrence, after the date of this Agreement, 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, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements, or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines, requirements, 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.

“*Closing Date*” means October [20], 2020, subject to the satisfaction or waiver by the Administrative Agent and the Lenders of the conditions precedent set forth in Section 4.01 hereof.

“*Code*” means the Internal Revenue Code of 1986, as amended, and any successor statute thereto.

“*Commitment*” means the agreement for each Lender pursuant to Section 2.01 hereof to make purchases of Certificates and related Term Loans, in an amount not exceeding the respective amount set forth in Schedule II, under the terms hereof.

“*Commitment Expiration Date*” means October ____, 2023, unless extended as provided herein.

“*Commitment Fee*” has the meaning set forth in Section 2.08(a) hereof.

“*Commitment Fee Rate*” means the rates per annum set forth in the Level associated with the Valley Water Ratings as set forth below:

<u>Level</u>	<u>Fitch/S&P Rating</u>	<u>Moody’s Rating</u>	<u>Commitment Fee Rate</u>
1	AA+ or above	Aa1 or above	0.35%
2	AA	Aa2	0.40%
3	AA-	Aa3	0.50%
4	A+	A1	0.75%
5	A	A2	1.10%
6	A-	A3	1.55%

In the case of a split Valley Water Rating (i.e., Valley Water Ratings of the Rating Agencies do not correspond to the same level), the Commitment Fee Rate shall be based upon (i) in the case where Valley Water Ratings are provided by all three Rating Agencies and two such Valley Water Ratings correspond to the same level, the level corresponding to the two same Valley Water Ratings, (ii) in the case where Valley Water Ratings are provided by all three Rating Agencies and no two Valley Water Ratings correspond to the same level, the Valley Water Rating corresponding to the middle level, and (iii) in the case where Valley Water Ratings are provided by only two Rating Agencies, the level corresponding to the lowest Valley Water Rating. Any change in the Commitment Fee Rate resulting from a change in a Valley Water Rating shall be and become effective automatically as of and on the date of the announcement of the change in such Valley Water Rating. In the event that the rating falls below Level 6 or if an Event of Default occurs, the Commitment Fee Rate shall increase an additional three percent (3.0%) above the rate specified in Level 6. The Commitment Fee shall be payable quarterly in arrears on the first Business Day of each January, April, July and October of each calendar year (beginning on the first such date to occur after the Closing Date) and on the Termination Date, or such earlier date on which the Available Commitment may be terminated in accordance with the terms of this Agreement. References to Valley Water 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 by any Rating Agency, including, without limitation, any recalibration of Valley Water Rating in connection with the adoption of a “*global*” rating scale, each Valley Water Rating in question referred to above shall be deemed to refer to the rating category under the new rating system which most closely approximates the applicable rating category as currently in effect. Valley Water acknowledges that as of the Closing Date the Commitment Fee Rate is that specified above for Level 1.

“*Computation Date*” means the date that is two (2) New York Banking Days preceding the LIBOR Reset Date.

“*Contracts*” has the meaning set forth in the Parity Master Resolution.

“*Control*” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise.

“*Controlling*” and “*Controlled*” have meanings correlative thereto. Without limiting the generality of the foregoing, a Person shall be deemed to be Controlled by another Person if such other Person possesses, directly or indirectly, power to vote 10% or more of the securities having ordinary voting power for the election of directors, managing general partners or the equivalent.

“*Corporation*” has the meaning set forth in the introductory paragraph hereof.

“*Corporation Resolution*” means that certain Resolution No. PFFC-16-005, adopted by the Corporation on November 10, 2016, which amended and restated that certain Resolution No. PFFC-12-001, adopted by the Corporation on May 10, 2012, as previously amended, and as the same may be amended, restated, supplemented or otherwise modified pursuant to the terms hereof and thereof.

“*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).

“*Current Water Utility System Revenues*” has the meaning set forth in the Parity Master Resolution.

“*Debt*” of any Person means at any date and without duplication, (i) all obligations of such Person for borrowed money, and all obligations of such Person evidenced by bonds, debentures, notes, securities, loan agreements or other similar instruments, (ii) all direct or contingent obligations of such Person arising under letters of credit, bankers’ acceptances, bank guaranties, surety bonds and similar instruments, (iii) Capital Lease Obligations, (iv) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business (including, without limitation, accounts payable to construction contractors and other professionals for services rendered), (v) all indebtedness of others secured by a lien on any asset of such Person, whether or not such indebtedness is assumed by such Person, (vi) all indebtedness of others guaranteed by, or secured by any of the revenues or assets of, such Person and (vii) payment obligations of such Person under any Swap Contract.

“*Debtor Relief Laws*” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“*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 per annum equal to the sum of the Base Rate in effect on such day *plus* three percent (3.0%).

“*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.

“*Defaulting Lender*” means, subject to Section 2.18(b) hereof, any Lender that (a) has failed to (i) fund all or any portion of the purchase of Certificates within two Business Days after the date such Certificates were required to be purchased hereunder unless such Lender notifies the Administrative Agent and Valley Water in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to purchase (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied or (ii) pay to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within two (2) Business Days after the date when due, (b) has notified Valley Water or the Administrative Agent in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to purchase any Certificate hereunder and states that such position is based on such Lender’s determination that a condition precedent to purchase (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by the Administrative Agent or Valley Water, to confirm in writing to the Administrative Agent and Valley Water that it will comply with its prospective purchase obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and Valley Water), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity; *provided* that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and

binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.18(b) hereof) upon delivery of written notice of such determination to Valley Water and each Lender.

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

(i) on the date when Valley Water files any statement, supplemental statement or other tax schedule, return or document which discloses that an Event of Taxability shall have in fact occurred;

(ii) on the date when the Holder or any former Holder notifies Valley Water 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 Valley Water of such notification from the Holder or any former Holder, Valley Water shall deliver to the Holder and any former Holder a ruling or determination letter issued to or on behalf of Valley Water 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 shall not have occurred;

(iii) on the date when Valley Water 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 Valley Water, or upon any review or audit of Valley Water or upon any other ground whatsoever, an Event of Taxability shall have occurred; or

(iv) on the date when Valley Water shall receive notice from the Holder or any former Holder 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 such Holder or such former Holder the interest on the Tax-Exempt Certificates due to the occurrence of an Event of Taxability;

provided, however, no Determination of Taxability shall occur under subparagraph (iii) or (iv) hereunder unless Valley Water has been afforded the 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 Holder or former Holder, Valley Water shall promptly reimburse, but solely from payments made by Valley Water, such Holder or former Holder for any payments, including any taxes, interest,

penalties or other charges, such Holder (or former Holder) shall be obligated to make as a result of the Determination of Taxability.

“*District Act*” means the Santa Clara Valley Water District Act, Chapter 1405 of Statutes 1951 of the State of California, as previously amended and as the same may be amended.

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

“*E-SIGN*” means the Federal Electronic Signatures in Global and National Commerce Act, as amended from time to time, and any successor statute, and any regulations promulgated thereunder from time to time.

“*EMMA*” means Electronic Municipal Market Access as provided by the Municipal Securities Rulemaking Board.

“*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 governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

“*ERISA*” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and all rules and regulations from time to time promulgated thereunder, or any successor statute.

“*Event of Default*” has the meaning set forth in Section 8.01 hereof.

“*Event of Taxability*” means (i) a 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 Valley Water, or the failure to take any action by Valley Water, or the making by Valley Water of any misrepresentation herein or in any certificate required to be given in connection with the issuance, sale or delivery of the Tax-Exempt Certificates) which has the effect of causing interest paid or payable with respect to any Tax-Exempt Certificate to become includable, in whole or in part, in the gross income of the Holder or any former Holder 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 with respect to any Tax-Exempt Certificate to become includable, in whole or in part, in the gross income of the Holder or any former Holder for federal income tax purposes with respect to the Tax-Exempt Certificates.

“*Excess Interest*” has the meaning set forth in Section 3.04 hereof.

“*Excess Interest Fee*” has the meaning set forth in Section 3.04 hereof.

“Excluded Principal” means each payment of principal of Subordinate Obligations with a maturity of less than 42 months and which Valley Water specifies in a certificate of Valley Water signed by an Authorized Officer and filed with the Administrative Agent that it intends to pay such principal payments from the proceeds of Subordinate Obligations, other bonds, notes or other obligations of Valley Water or other moneys other than Water Utility System Revenues, Current Water Utility System Revenues or Net Water Utility System Revenues. No such determination shall affect the security for such Subordinate Obligations or the obligation of Valley Water to pay such Subordinate Obligations from Net Water Utility System Revenues.

“Excluded Tax” means, with respect to any Lender or any Holder, (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such Lender or such Holder is organized or in which its principal office is located, and (b) any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction in which such Lender or Holder is located.

“Experienced Banker or Advisor” has the meaning set forth in the Parity Master Resolution.

“Federal Funds Rate” means, for any day, the greater of (a) zero and (b) the rate per annum calculated by the Federal Reserve Bank of New York based on such day’s federal funds transactions by depository institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the federal funds effective rate or, if such rate is not so published for any day which is a Business Day, the average of the quotations at approximately 10:00 a.m. (Central time) on such day on such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by the Administrative Agent in its sole discretion. Notwithstanding anything herein to the contrary, if the Federal Funds Rate as determined as provided above would be less than zero percent (0.0%), then the Federal Funds Rate shall be deemed to be zero percent (0.0%).

“Fee Letter” means the Fee Letter, dated October ____, 2020, between Valley Water and the Administrative Agent.

“Fiscal Year” has the meaning set forth in the Parity Master Resolution.

“Fitch” means Fitch, Inc. and any successor rating agency.

“GAAP” means generally accepted accounting principles in the United States as in effect from time to time, applied by Valley Water on a basis consistent with Valley Water’s most recent financial statement furnished to the Administrative Agent.

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

“*Governmental Authority*” means any national, supranational, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasigovernmental, judicial, administrative, public or statutory instrumentality, authority, body, agency, department, commission, bureau, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government, or any arbitrator, mediator or other Person with authority to bind a party at law.

“*Holder*” means the Lenders and each Lender Transferee or Non-Lender Transferee pursuant to Section 10.06 hereof so long as such Lender Transferee or Non-Lender Transferee is an owner of Certificates or the corresponding Term Loan as provided for herein.

“*Incremental Commitment*” has the meaning set forth in Section 2.19(a) hereof.

“*Incremental Effective Date*” has the meaning set forth in Section 2.19(c) hereof.

“*Incremental Lender*” has the meaning set forth in Section 2.19(b) hereof.

“*Indemnified Taxes*” means Taxes other than Excluded Taxes.

“*Indemnitee*” has the meaning set forth in Section 10.04(b) hereof.

“*Independent Certified Public Accountant*” has the meaning set forth in the Parity Master Resolution.

“*Initial Term Loan Payment Date*” means the first Business Day that is at least one hundred and eighty (180) days following the applicable Term Loan Date.

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

“*Interest Payment Date*” means as to any Certificate and as to any Term Loan, the first Business Day of each month and the date of any payment or prepayment of principal of such Certificate or Term Loan, as applicable.

“*Interest Period*” means the period commencing on and including the first calendar day of each month to but not including the first calendar day of the immediately succeeding month; *provided* that with respect to any Certificate executed and delivered or deemed executed and delivered on a date other than the first calendar day of a month, “Interest Period” shall mean the period commencing on and including the date of issuance (or deemed issuance) to but not including the first calendar day of the immediately succeeding month.

“*Investment Policy*” means, collectively, the investment policies of Valley Water delivered to the Administrative Agent on or prior to the Closing Date, or any revision thereof delivered to the Administrative Agent pursuant to Section 6.16 hereof.

“*Issuing and Paying Agent Agreement*” means that certain Restated Issuing and Paying Agent Agreement dated as of October 1, 2020, among Valley Water, the Corporation and the Paying Agent, as further amended, supplemented, restated and otherwise modified from time to time in accordance with the terms thereof and hereof.

“*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.

“*Lender Note*” has the meaning set forth in Section 2.06(e) hereof.

“*Lender Transferee*” has the meaning set forth in Section 10.06(b) hereof.

“*Lenders*” means the lending institutions listed on the signature pages of this Agreement and their respective successors and assigns.

“*Liabilities*” has the meaning set forth in Section 10.04(b) hereof.

“*LIBOR*” means the London interbank offered rate.

“*LIBOR Rate*” means, for the relevant Interest Period, the quotient of (a) the applicable interest settlement rate for deposits in Dollars administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate) appearing on the applicable Reuters Screen (or on any successor or substitute page) as of 11:00 a.m. (London time) on the Computation Date, and having a maturity equal to such Interest Period; *provided* that, if the applicable Reuters Screen (or any successor or substitute page) is not available to the Administrative Agent for any reason, the applicable LIBOR Rate for the relevant Interest Period shall instead be the applicable interest settlement rate for deposits in Dollars administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate) as reported by any other generally recognized financial information service selected by the Administrative Agent as of 11:00 a.m. (London time) on the Computation Date, and having a maturity equal to such Interest Period divided by (b) one minus the Reserve Percentage; *provided* that the LIBOR Rate expressed as an annual rate shall not be less than 0.15%. The Administrative Agent’s internal records of applicable interest rates shall be determinative in the absence of manifest error.

“*LIBOR Reset Date*” means the first day of each Interest Period.

“*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, and any financing lease having substantially the same economic effect as any of the foregoing).

“Maintenance and Operation Costs” has the meaning set forth in the Parity Master Resolution.

“Mandatory Prepayment Date” means the fifth (5th) Business Day after receipt by Valley Water, the Corporation and the Paying Agent of notice of an Event of Default from the Administrative Agent and directing Valley Water and the Trustee, as applicable, to cause the outstanding Certificates to be subject to mandatory prepayment.

“Master Certificate” has the meaning set forth in Section 2.01 hereof.

“Master Tax-Exempt Certificate” has the meaning set forth in Section 2.01 hereof.

“Master Taxable Certificate” has the meaning set forth in Section 2.01 hereof.

“Material Adverse Change” or *“Material Adverse Effect”* means any event that (i) causes a material adverse change in or a material adverse effect on (a) the validity or enforceability of any of the Related Documents, (b) the validity, enforceability or perfection of the pledge of and lien on the Net Water Utility System Revenues to secure the repayment of the Term Loans and the accrued interest thereon or the payment of the TRANs and accrued interest thereon relating to the Certificates, (c) any of the rights, security, interest or remedies available to the Lenders under this Agreement or the other Related Documents or (ii) could reasonably be expected to have a material adverse effect on the ability of Valley Water or the Corporation to timely perform its respective obligations under the Related Documents.

“Maximum Federal Corporate Tax Rate” means the maximum 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 Lenders, the maximum statutory rate of federal income taxation which could apply to any Lender).

“Maximum Rate” means (i) with respect to any Certificate, the lesser of (x) twelve percent (12.0%) and (y) the maximum non-usurious lawful rate of interest permitted by applicable law, and (ii) with respect to any other Obligation (including, without limitation, any Reimbursement Obligation) the maximum non-usurious lawful rate of interest permitted by applicable law.

“Moody’s” means Moody’s Investors Service, Inc. and any successor rating agency.

“Net Water Utility System Revenues” has the meaning set forth in the Parity Master Resolution.

“New York Banking Day” means any day (other than a Saturday or Sunday) on which commercial banks are open for business in New York, New York. The Administrative Agent’s internal records of applicable interest rates shall be determinative in the absence of manifest error,

subject to the right of the Issuer to receive upon request a reasonably detailed calculation to identify a manifest error.

“Non-Lender Transferee” has the meaning set forth in Section 10.06(c) hereof.

“Obligations” means the Reimbursement Obligations and all other payment obligations of Valley Water to the Lenders arising under or in relation to this Agreement, the Lender Note and/or Term Loans, including in each case, all interest payable thereon.

“Other Taxes” has the meaning set forth in Section 3.01(a) hereof.

“Paired Obligations” means any Subordinate Obligations (or portion thereof) designated as Paired Obligations in the resolution, indenture, trust agreement or other security document authorizing the issuance or execution and delivery thereof, (i) the principal of which is of equal amount maturing and to be redeemed or prepaid (or cancelled after acquisition thereof) on the same dates and in the same amounts, and (ii) the interest rates which, taken together, were intended to result in a fixed interest rate obligation of Valley Water for all or a portion of the term of such Subordinate Obligations, all as certified by an Experienced Banker or Advisor.

“Parity Debt Service” has the meaning given to “Debt Service” in the Parity Master Resolution.

“Parity Master Resolution” means Resolution No. 16-10 adopted by Valley Water on February 23, 2016, as amended by Resolution No. 16-82 adopted by Valley Water on December 13, 2016, and as the same may be further amended, supplemented, or otherwise modified from time to time in accordance with the terms thereof and hereof.

“Parity Obligations” means, collectively, Bonds and Contracts.

“Participant” means any entity to which a Lender has granted a participation in the obligations of such Lender hereunder and/or under the Certificates and/or the Term Loans.

“Participant Register” is defined in Section 9.06(d)(ii).

“Paying Agent” means a corporation or banking entity designated to act as the Paying Agent pursuant to the terms of the Corporation Resolution. As of the Closing Date, U.S. Bank National Association is the Paying Agent.

“Person” means any individual, a corporation, a partnership, an association, a limited liability company, a trust or any other entity or organization, including a government or political subdivision or any agency or instrumentality thereof.

“Plan” means, with respect to Valley Water at any time, an employee pension benefit plan which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code.

“*Prime Rate*” means, on any day, the rate of interest per annum equal to the prime rate reported in The Wall Street Journal (or the average prime rate if a high and a low prime rate are therein reported). If The Wall Street Journal ceases to report a prime rate, then the Prime Rate thereafter shall be the rate of interest per annum then most recently established by the Administrative Agent as its “prime rate,” and the Prime Rate shall change without notice with each change in such prime rate as of the date such change is reported. Any such rate is a general reference rate of interest, may not be related to any other rate, and may not be the lowest or best rate actually charged by the Lenders to any customer or a favored rate and may not correspond with future increases or decreases in interest rates charged by other lenders or market rates in general, and that the Lenders may make various business or other loans at rates of interest having no relationship to such rate. Notwithstanding anything herein to the contrary, if the Prime Rate determined as provided above would be less than zero percent (0.0%), then the Prime Rate shall be deemed to be zero percent (0.0%).

“*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.

“*PTE*” means a prohibited transaction class exemption issued by the U.S. Department of Labor, as amended from time to time.

“*Purchase*” means each purchase of a Certificate described in Section 2.03(b) hereof.

“*Purchase Date*” means each date on which a Purchase occurs.

“*QFC*” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. § 5390(c)(8)(D).

“*QFC Credit Support*” is defined in Section 10.22.

“*Rate Stabilization Fund*” has the same meaning given to such term in the Parity Master Resolution.

“*Rating Agency*” means, individually or collectively, as applicable, Moody’s, Fitch and S&P, as the context may require.

“*Reimbursement Obligations*” means any and all obligations of Valley Water to repay the Lenders in connection with the Certificates and Term Loans, including all interest accrued thereon.

“*Related Documents*” means this Agreement, the Certificates, the Issuing and Paying Agent Agreement, each of the Resolutions, the TRANs, the Lender Note and any other agreement or instrument relating thereto.¹

¹ Subject to ongoing diligence.

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

“*Relevant Governmental Body*” means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto.

“*Request for Purchase*” means the request for a purchase of a Certificate by the Lenders, in the form of Exhibit A hereto.

“*Required Lenders*” means, at any time, one or more Lenders having more than 50% of the total Commitment of all Lenders. The amount of unused Commitment of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

“*Reserve Percentage*” means, for any day during any Interest Period, the reserve percentage in effect on such day, whether or not applicable to any Lender, under regulations issued from time to time by the Board of Governors of the Federal Reserve System for determining the maximum reserve requirement (including any emergency, special, supplemental or other marginal reserve requirement) with respect to eurocurrency funding (currently referred to as “*Eurocurrency liabilities*” in Regulation D). The LIBOR Rate for each outstanding Certificate shall be adjusted automatically as of the effective date of any change in the Reserve Percentage.

“*Resolutions*” means the Senior Master Resolution, the Parity Master Resolution, the Corporation Resolution and the TRANs Resolution.²

“*Risk-Based Capital Guidelines*” means (a) the risk-based capital guidelines in effect in the United States of America, including transition rules, and (b) the corresponding capital regulations promulgated by regulatory authorities outside the United States of America including transition rules, and any amendment to such regulations that are applicable to the Lenders.

“*Sanctions*” means sanctions administered or enforced from time to time by the U.S. government, including those administered by OFAC, the U.S. Department of State, the United Nations Security Council, the European Union, Her Majesty’s Treasury or other relevant sanctions authority.

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

“*Senior Debt Service*” has the meaning given to “Debt Service” in the Senior Master Resolution.

“*Senior Lien Obligations*” means Valley Water’s Water Utility System Refunding Revenue Bonds Taxable Series 2006B.

² Subject to ongoing review.

“*Senior Master Resolution*” means Resolution No. 94-58 providing for the allocation of water utility system revenues, adopted by Valley Water on June 23, 1994, as heretofore amended and as hereafter amended pursuant to the terms thereof and hereof.

“*Series AB Bank Pledge*” has the meaning set forth in Section 2.13 hereof.

“*Series C Certificates*” means the Santa Clara Valley Water District Revolving Certificates, Series C (Tax-Exempt).

“*Series D Certificates*” means the Santa Clara Valley Water District Revolving Certificates, Series D (Taxable).

“*Special Purpose Funds*” has the same meaning given to such term in the Parity Master Resolution.

“*State*” means the State of California.

“*Subordinate Debt Service*” means, for any period of calculation, the sum of:

(1) the interest payable on all outstanding Subordinate Obligations during such period, assuming that all outstanding serial Subordinate Obligations are retired as scheduled and that all outstanding term Subordinate Obligations are prepaid or paid from sinking fund payments as scheduled (except to the extent that such interest is capitalized or is reasonably anticipated to be reimbursed to Valley Water by the United States of America pursuant to Section 54AA of the Code (Section 1531 of Title I of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111 5, 23 Stat. 115 (2009), enacted February 17, 2009)), or any future similar program);

(2) those portions of the principal amount of all outstanding serial Subordinate Obligations maturing in such period (but excluding Excluded Principal),

(3) those portions of the principal amount of all outstanding term Subordinate required to be prepaid or paid in such period (but excluding Excluded Obligations Principal),

but less the earnings to be derived from the investment of moneys on deposit in debt service reserve funds established for Subordinate Obligations;

provided that, as to any such Subordinate Obligations bearing or comprising interest at other than a fixed rate, the rate of interest used to calculate Subordinate Debt Service shall, for all purposes, be assumed to bear interest at a fixed rate equal to the higher of:

(i) the then current variable interest rate borne by such Subordinate Obligations, and

(ii) if such Subordinate Obligations have been outstanding for at least twelve months, the average rate over the twelve months immediately preceding the date of calculation, or if such Subordinate Obligations have not been outstanding for the twelve prior months, the average rate borne by reference to an index comparable to that to be utilized in determining the interest rate for the Subordinate Obligations to be issued or executed;

provided further that if any series or issue of such Subordinate Obligations have twenty-five percent (25%) or more of the aggregate principal amount of such series or issue due in any one year, Subordinate Debt Service shall be determined for the period of determination as if the principal of and interest on such series or issue of such Subordinate Obligations were being paid from the date of incurrence thereof in substantially equal annual amounts over a period of forty (40) years from the date of calculation; and

provided further that if the Subordinate Obligations constitute Paired Obligations, the interest rate on such Subordinate Obligations shall be the resulting linked rate or the effective fixed interest rate to be paid by Valley Water with respect to such Paired Obligations; and

provided further that the amount on deposit in a debt service reserve fund on any date of calculation of Subordinate Debt Service shall be deducted from the amount of principal due at the final maturity of the Subordinate Obligations for which such debt service reserve fund was established and to the extent the amount in such debt service reserve fund is in excess of such amount of principal, such excess shall be applied to the full amount of principal due, in each preceding year, in descending order, until such amount is exhausted.

“Subordinate Lien Debt Service Coverage Ratio” means the ratio of (1) Net Water Utility System Revenues for the most recent audited Fiscal Year as reflected in the financial statements of Valley Water that have been delivered to the Administrative Agent pursuant to Section 6.01(a) hereof remaining after making all of the required transfers and payments from the Water Utility System Revenue Fund pursuant to subsections (a), (b), (c), (d) and (e) of Section 2.2 of the Parity Master Resolution for such Fiscal Year, to (2) total Subordinate Debt Service for such Fiscal Year.

“Subordinate Obligations” means the Obligations, and all other Debt of Valley Water secured by or payable from Net Water Utility System Revenues on a parity with the Obligations.

“Supported QFC” is defined in Section 10.22.

“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.

“*Tax-Exempt Applicable Spread*” means the rates per annum set forth in the Level associated with Valley Water Ratings as set forth below:

<u>Level</u>	<u>Fitch/S&P Rating</u>	<u>Moody’s Rating</u>	Tax-Exempt Applicable Spread
1	AA+ or above	Aa1 or above	1.20%
2	AA	Aa2	1.25%
3	AA-	Aa3	1.35%
4	A+	A1	1.60%
5	A	A2	1.95%
6	A-	A3	2.40%

In the case of a split Valley Water Rating (i.e., Valley Water Ratings of the Rating Agencies do not correspond to the same level), the Tax-Exempt Applicable Spread shall be based upon (i) in the case where Valley Water Ratings are provided by all three Rating Agencies and two such Valley Water Ratings correspond to the same level, the level corresponding to the two same Valley Water Ratings, (ii) in the case where Valley Water Ratings are provided by all three Rating Agencies and no two Valley Water Ratings correspond to the same level, the Valley Water Rating corresponding to the middle level, and (iii) in the case where Valley Water Ratings are provided by only two Rating Agencies, the level corresponding to the lowest Valley Water Rating. Any change in the Tax-Exempt Applicable Spread resulting from a change in a Valley Water Rating shall be and become effective automatically as of and on the date of the announcement of the change in such Valley Water Rating. References to Valley Water 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 by any Rating Agency, including, without limitation, any recalibration of Valley Water Rating in connection with the adoption of a “*global*” rating scale, each Valley Water Rating in question referred to above shall be deemed to refer to the rating category under the new rating system which most closely approximates the applicable rating category as currently in effect. Valley Water acknowledges that as of the Closing Date the Tax-Exempt Applicable Spread is that specified above for Level 1.

“*Tax-Exempt Certificate*” has the meaning set forth in Section 2.01(a) hereof.

“*Tax-Exempt LIBOR Rate*” means, on any date the same is to be determined, a floating rate per annum that is equal to the sum of (a) the product of (i) 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 LIBOR Rate*” shall mean the Default Rate; *provided further* that if for any LIBOR Reset Date the LIBOR Rate is not available, then the Tax-Exempt LIBOR Rate shall be determined in the manner set forth in Section 2.14(b) hereof.

“*Tax-Exempt TRAN*” means (i) that certain Santa Clara Valley Water District 2020-2021 Tax-Exempt Tax and Revenue Anticipation Note issued by Valley Water and secured in accordance with the TRANs Resolution, and (ii) all other similarly secured tax-exempt tax and revenue anticipation notes issued by Valley Water pursuant to a TRANs Resolution and assigned to the Trustee in accordance with the Corporation Resolution.

“*Taxable Applicable Spread*” means the rates per annum set forth in the Level associated with Valley Water Ratings as set forth below:

<u>Level</u>	<u>Fitch/S&P Rating</u>	<u>Moody’s Rating</u>	<u>Taxable Applicable Spread</u>
1	AA+ or above	Aa1 or above	1.40%
2	AA	Aa2	1.45%
3	AA-	Aa3	1.55%
4	A+	A1	1.80%
5	A	A2	2.15%
6	A-	A3	2.60%

In the case of a split Valley Water Rating (i.e., Valley Water Ratings of the Rating Agencies do not correspond to the same level), the Taxable Applicable Spread shall be based upon (i) in the case where Valley Water Ratings are provided by all three Rating Agencies and two such Valley Water Ratings correspond to the same level, the level corresponding to the two same Valley Water Ratings, (ii) in the case where Valley Water Ratings are provided by all three Rating Agencies and no two Valley Water Ratings correspond to the same level, the Valley Water Rating corresponding to the middle level, and (iii) in the case where Valley Water Ratings are provided by only two Rating Agencies, the level corresponding to the lowest Valley Water Rating. Any change in the Taxable Applicable Spread resulting from a change in a Valley Water Rating shall be and become effective automatically as of and on the date of the announcement of the change in such Valley Water Rating. References to Valley Water 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 by any Rating Agency, including, without limitation, any recalibration of Valley Water Rating in connection with the adoption of a “*global*” rating scale, each Valley Water Rating in question referred to above shall be deemed to refer to the rating category under the new rating system which most closely approximates the applicable rating category as currently in effect. Valley Water acknowledges that as of the Closing Date the Taxable Applicable Spread is that specified above for Level 1.

“*Taxable Certificate*” has the meaning set forth in Section 2.01(a) hereof.

“*Taxable Date*” means the date on which interest with respect to any Tax-Exempt Certificate is first includable in gross income of the Holder (including, without limitation, any previous Holder) thereof as a result of an Event of Taxability as such a date is established pursuant to a Determination of Taxability.

“*Taxable Gross-Up Rate*” means, with respect to each day during a Taxable Period, the product of (i) the interest rate on the Tax-Exempt Certificate for such day and (ii) the quotient of (A) one divided by (B) (x) one minus (y) the Maximum Federal Corporate Tax Rate applicable on each day during the Taxable Period.

“*Taxable LIBOR Rate*” means, on any date the same is to be determined, a floating rate per annum equal to the sum of the LIBOR Rate, *plus* 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 LIBOR Rate*” shall mean the Default Rate; *provided further* that if for any LIBOR Reset Date the LIBOR Rate is not available, then the Taxable LIBOR Rate shall be determined in the manner set forth in Section 2.14(b) hereof.

“*Taxable Period*” has the meaning set forth in Section 2.10 hereof.

“*Taxable TRAN*” means (i) that certain Santa Clara Valley Water District 2020-2021 Taxable Tax and Revenue Anticipation Note issued by Valley Water and secured in accordance with the TRANs Resolution, and (ii) all other similarly secured taxable tax and revenue anticipation notes issued by Valley Water pursuant to a TRANs Resolution and assigned to the Trustee in accordance with the Corporation Resolution.

“*Taxes*” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, fines, additions to tax or penalties applicable thereto; *provided,* that in no event shall the term Taxes include any fines or penalties assessed against any Lender that are not related to the extension of credit provided for herein.

“*Term Loan*” has the meaning set forth in Section 2.06(a) hereof.

“*Term Loan Date*” has the meaning set forth in Section 2.06(a) hereof.

“*Term Loan End Date*” means, with respect to any Term Loan, the earliest to occur of (a) the fifth (5th) anniversary of the date such Term Loan was made or deemed made, (b) the date on which the outstanding principal amount of such Term Loan and all accrued interest thereon is reimbursed in full in accordance with the terms hereof, (c) the Business Day when commercial paper notes, bonds or other similar obligations are issued by or on behalf of Valley Water, the proceeds of which could be used to reimburse the applicable Lender for the outstanding principal amount of such Term Loan and all accrued interest thereon, and (d) the date on which the applicable Lender causes the outstanding principal amount of such Term Loan and all accrued interest thereon to become due and payable in accordance with Section 8.02 hereof.

“*Term Loan Payment*” has the meaning set forth in Section 2.06(b) hereof.

“*Term Loan Payment Date*” means, with respect to any Term Loan, (a) the applicable Initial Term Loan Payment Date, (b) the first Business Day of each January, April, July and October of each calendar year following the Initial Term Loan Payment Date, and (c) the applicable Term Loan End Date.

“*Term Loan Period*” has the meaning set forth in Section 2.06(b) hereof.

“*Term Loan Rate*” means, with respect to any Term Loan, a fluctuating interest rate per annum which, for each day, shall equal (i) for the period from and including the date such Term Loan was made or deemed made to and including the ninetieth (90th) day immediately succeeding the date such Term Loan was made or deemed made, the Base Rate from time to time in effect, (ii) for the period from and including the ninety-first (91st) day immediately succeeding the date such Term Loan was made or deemed made to and including the one hundred eightieth (180th) day immediately succeeding the date such Term Loan was made or deemed made, the Base Rate from time to time in effect *plus* one percent (1.0%) and (iii) for the period from and including the one hundred eighty-first (181st) day immediately succeeding the date such Term Loan was made or deemed made and thereafter, the Base Rate from time to time in effect *plus* two percent (2.0%); *provided* that at any time an Event of Default has occurred and is continuing, the Term Loan Rate shall equal the Default Rate.

“*Termination Date*” means the earliest of (i) the Commitment Expiration Date, (ii) the date on which the Available Commitment is terminated in accordance with Section 2.09 hereof, and (iii) the date on which the Administrative Agent declares the Available Commitment to be terminated in accordance with Section 8.02 hereof.

“*TRANS*” means, collectively, the Tax-Exempt TRAN and the Taxable TRAN.

“*TRANS Act*” means Article 7.6 (commencing with Section 53850) of Chapter 4, Part 1, Division 2, Title 5 of the California Government Code, as amended.

“*TRANS Resolution*” means (i) the Resolution No. 20-25 of Valley Water’s Board of Directors adopted on May 16, 2020 authorizing the issuance of the TRANS relating to the Certificates and (ii) all other resolutions adopted by Valley Water’s Board of Directors after the Closing Date authorizing the issuance of TRANS relating to the Certificates.

“*Trustee*” means a corporation or banking entity designated to act as the Trustee pursuant to the terms of the Corporation Resolution. As of the Closing Date, U.S. Bank National Association is the Trustee.

“*UETA*” means the Uniform Electronic Transactions Act as in effect in the State of New York, as amended from time to time, and any successor statute, and any regulations promulgated thereunder from time to time.

“*United States*” and “*US.*” mean the United States of America.

“*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.

“*Valley Water*” has the meaning set forth in the introductory paragraph hereof.

“*Valley Water Authorizing Resolution*” means that certain Resolution No. 20-11, Authorizing the Solicitation and Negotiation of and Execution and Delivery of One or More Lines of Credit, Credit Agreement, Fee Letter and Related Documents and Actions, adopted by the Board of Directors of the Santa Clara Valley Water District on April 28, 2020.

“*Valley Water Rating*” means, individually or collectively, as applicable, the long-term unenhanced debt rating assigned by any of Moody’s, Fitch or S&P to any Parity Obligations.

“*Water Service*” has the meaning set forth in the Parity Master Resolution.

“*Water Utility System*” has the meaning set forth in the Parity Master Resolution.

“*Water Utility System Revenue Fund*” has the meaning set forth in the Parity Master Resolution.

“*Water Utility System Revenues*” has the meaning set forth in the Parity Master Resolution.

SECTION 1.02. *Other Interpretive Provisions.* With reference to this Agreement and each other Related Document, unless otherwise specified herein or in such other Related Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Related Document), (ii) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (iii) the words “herein,” “hereof” and “hereunder,” and words of similar import when used in any Related Document, shall be construed to refer to such Related Document in its entirety and not to any particular provision thereof, (iv) all references in a Related Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Related Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) the words “asset” and “property” shall be construed to have the same meaning and effect

and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including;” the words “to” and “until” each mean “to but excluding;” and the word “through” means “to and including.”

(c) Section headings herein and in the other Related Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Related Document.

(d) Defined terms used herein which are stated to have the meanings assigned in the Resolutions or Issuing and Paying Agent Agreement or any other Related Document, as applicable, shall incorporate any amendments, restatements, supplements or other modifications to such terms.

SECTION 1.03. *Accounting Terms.* (a) *Generally.* All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the financial statements, except as otherwise specifically prescribed herein.

(b) *Changes in GAAP.* If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Related Document, and any of Valley Water, the Corporation or the Administrative Agent shall so request, the Administrative Agent, the Corporation and Valley Water shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP; *provided that*, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) Valley Water shall provide to the Administrative Agent financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

SECTION 1.04. *Rounding of Financial Ratios.* Any financial ratios required to be maintained by Valley Water pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

SECTION 1.05. *Times of Day.* Unless otherwise specified, all references herein to times of day shall be references to San Francisco, California time (daylight or standard, as applicable).

SECTION 1.06. *Incorporated Agreement Provisions.* Any covenants and agreements of Valley Water herein and in the Related Documents which Valley Water is a party

and which are incorporated by reference herein (including all such covenants and agreements specified in the exhibits, schedules and defined terms referred to in the Related Document) shall survive any termination, cancellation, discharge or replacement of such Related Document.

SECTION 1.07. *LIBOR Notification.* The interest rate on the Certificates is determined by reference to the LIBOR Rate, which is derived from LIBOR. Section 2.14(b) provides a mechanism for (a) determining an alternative rate of interest if LIBOR is no longer available or in the other circumstances set forth in Section 2.14(b) and (b) modifying this Agreement to give effect to such alternative rate of interest. The Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to LIBOR or other rates in the definition of LIBOR Rate or with respect to any alternative or successor rate thereto, or replacement rate thereof, including without limitation, whether any such alternative, successor or replacement reference rate, as it may or may not be adjusted pursuant to Section 2.14(b), will have the same value as, or be economically equivalent to, the LIBOR Rate.

ARTICLE II

SALE AND PURCHASE; TERM LOANS; CLOSING

SECTION 2.01. *Purchase and Sale of Certificates.* (a) From the Closing Date to but excluding the Termination Date, and subject to the terms and conditions and on the basis of the representations, warranties and agreements contained herein, each Lender hereby agrees, severally and not jointly, when requested by Valley Water pursuant to the terms of this Agreement, to extend credit for the benefit of Valley Water by purchasing from the Trustee from time to time, in an aggregate principal amount not to exceed its allocation of the Available Commitment from time to time in effect, and Valley Water hereby agrees to sell and deliver to, or cause to be sold and delivered to, each Lender from time to time, the Series C Certificates deemed to be executed and delivered from time to time, in accordance with the Corporation Resolution (the “*Tax-Exempt Certificates*”) and evidenced by a master certificate in the form attached as Exhibit C to the Issuing and Paying Agent Agreement (the “*Master Tax-Exempt Certificate*”), and the Series D Certificates deemed to be executed and delivered from time to time, in accordance with the Corporation Resolution (the “*Taxable Certificates*”) and, together with the Tax-Exempt Certificates, collectively herein the “*Certificates*”) and evidenced by a master certificate in the form attached as Exhibit D to the Issuing and Paying Agent Agreement (the “*Master Taxable Certificate*”) and, together with the Master Tax-Exempt Certificate, collectively herein the “*Master Certificates*”). The Tax-Exempt Certificates represent undivided ownership interests in the applicable Tax-Exempt TRAN, and the Taxable Certificates represent undivided ownership interests in the applicable Taxable TRAN[**in each case as further described in [_____]**]³.

(b) Pursuant to and subject to the terms of this Agreement, each Certificate shall be deemed to be purchased by and sold to the applicable Lender at a purchase price equal to the principal amount of such Certificate specified in the related Request for Purchase with no accrued

³ Subject to review of document connecting TRANs and Certificates.

interest, and, subject to Section 2.03 below, the Administrative Agent, on behalf of the Lenders, shall pay such purchase price to the Paying Agent on the related Purchase Date. Certificates purchased hereunder shall not be in physical form, but shall be deemed to be executed, authenticated and delivered to the Administrative Agent on behalf of each Lender on the related Purchase Date, and the Administrative Agent will **[(i)]** cause a notation to be made upon the applicable Master Certificate to reflect the principal amount of each Certificate deemed to be so purchased by and sold to each Lender**[, and (ii) confirm to the Paying Agent, the Corporation and the District that the execution and delivery of such Certificates has been evidenced by such a notation]**⁴. The Administrative Agent shall serve as a registrar for the Master Certificates and shall maintain a ledger with respect to each Master Certificate detailing each Lender's interest in each Master Certificate. Each Certificate shall (i) be deemed dated the date such Certificate is deemed to be executed and delivered to the applicable Lender, (ii) mature and be repaid to the Administrative Agent, for the ratable benefit of the Lenders, on a date no later than the earlier of (x) the Commitment Expiration Date, *[provided, that in the event that the Commitment Expiration Date is extended by the Lenders in accordance with the terms hereof, the maturity date of the applicable Certificate shall be automatically extended as provided in Section 11(b)(vii) of the Corporation Resolution and the Administrative Agent shall make a notation of such extension on the related Master Certificate with respect to such Certificate]*⁵, and (y) the date on which the then existing and related Tax-Exempt TRAN or Taxable TRAN, as applicable, matures, *[provided, that in the event that a new or subsequently authorized Tax-Exempt TRAN or Taxable TRAN, as applicable, is assigned to the Trustee, the maturity date of the applicable Certificate shall be automatically extended as provided in Section 11(b)(vii) of the Corporation Resolution and the Administrative Agent shall make a notation of such extension on the related Master Certificate with respect to such Certificate]*⁶, and (iii) be in a minimum principal amount of \$1,000,000 or an integral multiple of \$100,000 in excess thereof.

SECTION 2.02. *Closing.* Upon the satisfaction of the conditions set forth in Section 4.01 hereof and based on the representations, warranties and covenants of Valley Water and the Corporation set forth herein, the Lenders hereby agree to purchase Certificates (evidenced by the Master Certificates), on a pro rata basis, from time to time and pay the purchase price therefor specified in Section 2.01(b) hereof (and the Trustee and/or the Paying Agent, as applicable, shall be deemed to have caused the execution, authentication and delivery of such Certificate) at each Purchase upon the terms set forth in this Agreement. On the Closing Date, fully registered Master Certificates executed by manual signature of the Trustee and authenticated by the Paying Agent shall be delivered to the Administrative Agent, as provided for in the Corporation Resolution, and the Administrative Agent, acting as registrar for the Master Certificates, shall register each purchase of Certificates under the applicable Master Certificate in the name of each Lender making purchases under such Master Certificates.⁷

⁴ This seems to be required by Section 5(b) of the IPAA, but we'd like that requirement to be removed.

⁵ Corporation Resolution to provide for the same.

⁶ Corporation Resolution to provide for the same.

⁷ Corporation Resolution to contemplate Administrative Agent acting as registrar for the Master Certificates.

SECTION 2.03. *Method of Purchase.* (a) Each purchase of Certificates shall be made upon Valley Water's irrevocable written notice to the Administrative Agent in the form of a Request for Purchase with blanks appropriately completed; *provided* that Valley Water shall not deliver more than two (2) Requests for Purchase during any thirty (30) day period; *provided, further,* that at any time during which any Lender is a Defaulting Lender, Valley Water shall not deliver more than five (5) Requests for Purchase during any thirty (30) day period. Each Request for Purchase shall be signed by an Authorized Officer and shall specify: (1) the Purchase Date, which shall be a Business Day and shall be at least three (3) Business Days after the date of the Request for Purchase is received by the Administrative Agent; (2) the principal amount of the Certificates to be purchased, together with the aggregate principal amount of Certificates outstanding on the date of purchase, shall not exceed the Available Commitment as of the proposed Purchase Date; (3) the principal amount of the Certificate to be purchased, together with all other Certificates and Series AB Certificates (as defined in the Corporation Resolution) then outstanding relating to the same TRAN⁸, shall not exceed the principal amount of the related TRAN; and (4) whether the requested Certificates shall be Taxable Certificates and bear interest at the Taxable LIBOR Rate or shall be Tax-Exempt Certificates and bear interest at a Tax-Exempt LIBOR Rate. Each Request for Purchase must be received by the Administrative Agent not later than 10:00 a.m. three (3) Business Days immediately prior to the requested Purchase Date.

(b) Upon receipt of a Request for Purchase by the Administrative Agent, the Administrative Agent shall promptly notify each Lender of the amount of its required purchase (each a "*Purchase*") (representing its obligation to purchase its Applicable Percentage of Certificates and make Term Loans). Each Lender shall make available its funds to purchase its Applicable Percentage of the Certificates to the Administrative Agent at its address specified in Schedule I hereto, in immediately available funds, not later than 10:00 a.m. on the Proposed Purchase Date. Subject to receipt of payment in full of such amounts by each Lender, and subject to the terms and conditions of this Agreement, the Administrative Agent shall make a purchase of the Certificates by 3:00 p.m. on the proposed Purchase Date for the account of Valley Water in an amount equal to the amount of the requested purchase. Notwithstanding the foregoing, in the event such Request for Purchase is received by the Administrative Agent after 10:00 a.m. on the Business Day which is three (3) Business Days immediately prior to the day of the proposed Purchase, the Administrative Agent, subject to the terms and conditions of this Agreement, shall be required to make the related purchase of Certificates by 3:00 p.m. on the fourth (4th) Business Day after receipt of the related Request for Purchase.

(c) If, after examination, the Administrative Agent shall have determined that a Request for Purchase does not conform to the terms and conditions hereof, then the Administrative Agent shall use commercially reasonable efforts to give notice to Valley Water to the effect that documentation was not in accordance with the terms and conditions hereof and stating the reasons therefor. Valley Water may attempt to correct any such nonconforming Request for Purchase, if, and to the extent that, Valley Water is entitled (without regard to the provisions of this sentence) and able to do so. If Valley Water fails to specify a type of Certificate in a Request for Purchase,

⁸ Subject to review of the document(s) connecting the TRANs and the Certificates.

then the applicable Certificates requested for purchase shall be Certificates bearing interest at a Taxable LIBOR Rate.

SECTION 2.04. *Interest Rates with respect to Certificates.* (a) Prior to the Termination Date and except as otherwise provided in this Section 2.04 or in Section 2.07 hereof, as applicable, each Taxable Certificate shall bear interest at the Taxable LIBOR Rate and each Tax-Exempt Certificate shall bear interest at the Tax-Exempt LIBOR Rate.

(b) Subject to Section 2.10 hereof, from and after a Taxable Date, each Tax-Exempt Certificate shall bear interest at the Taxable Gross-Up Rate.

(c) All computations of interest with respect to the Certificates shall be made on the basis of a 360-day year and actual days elapsed. Interest shall accrue with respect to the Certificates from and including the day on which such Certificate was deemed executed and delivered, and shall not accrue with respect to such Certificate, or any portion thereof, for the day on which such Certificate or any principal portion thereof is paid. The Taxable LIBOR Rate or the Tax-Exempt LIBOR Rate, as applicable, with respect to any outstanding Certificates, shall be determined by the Administrative Agent on each Computation Date and become effective on the immediately succeeding LIBOR Reset Date for the related Interest Period; *provided* that (i) all Taxable Certificates purchased on a particular LIBOR Reset Date shall bear interest at the same Taxable LIBOR Rate, and all Tax-Exempt Certificates purchased on a particular LIBOR Reset Date shall bear interest at the same Tax-Exempt LIBOR Rate and (ii) all Taxable Certificates purchased on a date other than a LIBOR Reset Date shall bear interest at a Taxable LIBOR Rate calculated by the Administrative Agent based on the one-month LIBOR Rate in effect two (2) New York Business Days prior to such purchase to apply from the date of such purchase to the immediately succeeding LIBOR Reset Date, and all Tax-Exempt Certificates purchased on a date other than a LIBOR Reset Date shall bear interest at the Tax-Exempt LIBOR Rate calculated by the Administrative Agent based on the one-month LIBOR Rate in effect two (2) New York Business Days prior to such purchase to apply from the date of such purchase to the immediately succeeding LIBOR Reset Date.

SECTION 2.05. *Payment of Interest and Principal with respect to Certificates.* (a) (i) Accrued but unpaid interest with respect to each Certificate shall be due and payable on each Interest Payment Date. The Administrative Agent shall use commercially reasonable efforts to provide Valley Water with an invoice for such interest reasonably prior to each Interest Payment Date; *provided, however*, that a failure, delay or other act or omission by the Administrative Agent with respect to any such invoice shall not relieve Valley Water from complying with its obligations under this Agreement.

(ii) The principal amount of each outstanding Certificate is due and payable on the maturity date of such Certificate, which shall not be later than the Commitment Expiration Date.⁹

⁹ Corporation Resolution to conform.

(b) Each outstanding Certificate shall be subject to mandatory prepayment on the Mandatory Prepayment Date. All such mandatory prepayments of principal shall include accrued interest to the date of prepayment and all other amounts due and payable at such time pursuant to this Agreement.¹⁰

(c) Subject to the Fee Letter, Section 2.08 and Section 2.11 hereof, Valley Water may cause any Certificate to be prepaid, in whole or in part, on any Business Day provided at least three (3) Business Days' prior written notice is given by Valley Water to the Administrative Agent. Each such notice shall specify the date and amount of such prepayment and the Certificates to be prepaid. Each such notice of optional prepayment shall be irrevocable and shall bind Valley Water to cause such prepayment to be made in accordance with such notice. Any prepayment of Certificates shall be in a principal amount of \$1,000,000 or a whole multiple of \$100,000 in excess thereof or, if less, the entire principal amount thereof then outstanding. All prepayments of principal shall include accrued interest to the date of prepayment and all other amounts due and payable at such time pursuant to this Agreement.

(d) All Certificates due and owing to the Lenders and all payments and prepayments with respect to the Certificates shall be recorded by the Administrative Agent on its books and records, in accordance with its customary practice, which books and records shall, absent manifest error, be conclusive as to amounts due and owing by Valley Water hereunder and under the Certificates; *provided* that the failure to record or any error in recording any such amount shall not limit, extinguish or in any way modify the obligation of Valley Water to pay the Certificates.

SECTION 2.06. *Term Loans.* (a) To the extent each Lender has not received an amount equal to 100% of its pro rata share of the principal amount of any Certificate as and when due on the maturity date thereof or on the Mandatory Prepayment Date, as applicable, each Lender shall be deemed to have made a term loan (a "*Term Loan*") and extended credit to Valley Water on such date (each such date, a "*Term Loan Date*") in the principal amount of such unpaid Certificate, which Term Loan shall be applied to pay the principal amount of such Certificate.

(b) Unless otherwise reimbursed in full in accordance with the terms hereof, the principal amount of each Term Loan shall be payable by Valley Water in installments payable on each related Term Loan Payment Date (each such payment, a "*Term Loan Payment*"), with the final installment in an amount equal to the entire then-outstanding principal amount of the applicable Term Loan to be reimbursed in full on the Term Loan End Date (the period commencing on the date such Term Loan was made and ending on the Term Loan End Date is herein referred to as the "*Term Loan Period*" with respect to such Term Loan); *provided, however*, that if (i) any representation or warranty contained in Article V of this Agreement is not true and correct as of the related Term Loan Date or (ii) a Default or an Event of Default has occurred and is continuing as of the related Term Loan Date, then Valley Water shall repay the full amount of the related Term Loan immediately on such date, and if Valley Water does not make such repayment on such date, such Term Loan shall bear interest at the Default Rate and be payable upon demand. Each Term Loan Payment shall be that amount of principal which will result in equal (as nearly as

¹⁰ Corporation Resolution to conform.

possible) aggregate Term Loan Payments over the applicable Term Loan Period. During any Term Loan Period, subject to Section 2.07 hereof, interest on the principal amount of the applicable Term Loan shall accrue at the applicable Term Loan Rate, be payable monthly in arrears on the first Business Day of each calendar month and be calculated on the basis of a 365 or 366 day year, as applicable, and actual days elapsed.

(c) Each Term Loan may be prepaid in whole or in part without premium or penalty, except as set forth in Section 2.09 hereof, on the day such Term Loan is made or deemed made or on any other Business Day upon one Business Day's prior written notice to the Administrative Agent.

(d) Upon the Administrative Agent's receipt of any prepayment of a Term Loan, the Administrative Agent shall credit the amount of such prepayment received first to the payment of any outstanding interest accrued on such Term Loan and second to the payment of the principal of such Term Loan. Any prepayment to be applied to principal of a Term Loan shall be applied to the remaining Term Loan Payments payable thereon in inverse order of their due date. Prepayments of Term Loans shall be applied to the outstanding Term Loans in the chronological order which they were made.

(e) All Reimbursement Obligations shall be evidenced by Valley Water's promissory notes payable to the order of the Administrative Agent, for the benefit of each respective Lender, in the principal amount of each respective Lender's Commitment, such notes to be executed by Valley Water and delivered by Valley Water to the Administrative Agent on the Closing Date in the form of Exhibit H attached hereto with appropriate insertions (together with any and all other promissory notes evidencing the Reimbursement Obligations issued from time to time hereunder, collectively, the "*Lender Notes*"). All Reimbursement Obligations due and owing to the Lenders and all payments and prepayments on the account of the principal of and interest on each Reimbursement Obligation by or on behalf of Valley Water shall be recorded by the Administrative Agent on its books and records, in accordance with its customary practice, which books and records shall, absent manifest error, be conclusive as to amounts due and owing by Valley Water hereunder and under the Lender Notes; *provided* that the failure to record or any error in recording any such amount shall not limit, extinguish or in any way modify the obligation of Valley Water to repay the Reimbursement Obligations. Valley Water shall pay principal and interest on the Lender Notes on the dates, in the amounts, and at the rates provided for in Section 2.06(b) hereof. In the event any Term Loan or a Certificate with the related obligation to make a Term Loan with respect thereto, or, in each case, any portion thereof, is assigned to a subsequent Holder pursuant to the terms hereof, upon the request of the Administrative Agent or such subsequent Holder, Valley Water shall deliver a promissory note payable to the order of such Holder in the principal amount of such Holder's Term Loans or Certificate, as applicable, in the form of Exhibit H attached hereto with appropriate insertions and adjustments as directed by the Administrative Agent.

SECTION 2.07. *General Interest Rate and Payment Provisions.*

(a) Notwithstanding anything herein to the contrary, (i) upon the occurrence and during the continuance of an Event of Default, all Obligations shall bear interest at the Default Rate, and (ii) if the principal amount of any Obligation is not paid when due, such Obligation shall bear interest

until paid in full at a rate per annum equal to the Default Rate. Interest that has accrued at the Default Rate shall be payable by Valley Water to the Administrative Agent upon demand therefor and be calculated on the basis of a 365- or 366-day year, as applicable, and actual days elapsed. Interest shall be payable for the day a Certificate is purchased or Term Loan is made but not for the day a Certificate is deemed purchased on the amount paid if payment is received before _____ [a.m. / p.m.] (San Francisco time).

(b) Interest with respect to Obligations bearing interest at the Term Loan Rate or the Default Rate shall be determined and reset each day. Each determination by the Administrative Agent of an interest rate shall be conclusive and binding for all purposes, absent manifest error.

(c) If the payment date for the principal of or interest with respect to a Certificate or a Term Loan is a day other than a Business Day, the date for payment thereof shall be extended, without penalty, to the next succeeding Business Day, and such extended period of time shall be included in the computation of interest; *provided, however*, the payment of interest with respect to a Certificate or a Term Loan on such extended date shall have the same force and effect as if made on the original payment date.

SECTION 2.08. *Commitment Fee; Fee Letter.* (a) *Commitment Fee.* Valley Water agrees to pay to the Administrative Agent, for the ratable benefit of the Lenders, a nonrefundable annual commitment fee (the “*Commitment Fee*”) equal to a rate per annum equal to the Commitment Fee Rate (computed on the basis of a year of 360 days and the actual number of days elapsed) multiplied by the daily Available Commitment. The Commitment Fee shall be payable quarterly in arrears on the first Business Day of each January, April, July and October of each calendar year (beginning on the first such date to occur after the Closing Date) and on the Termination Date, or such earlier date on which the Commitment may be terminated in accordance with the terms of this Agreement.

(b) *Fee Letter.* Valley Water hereby agrees to pay, or cause to be paid, to the Administrative Agent, its own account, those fees set forth in the Fee Letter at the times and in the amounts set forth therein. The terms of the Fee Letter are hereby incorporated herein by reference as if fully set forth herein.

SECTION 2.09. *Reduction and Termination.* (a) The Available Commitment shall be permanently reduced from time to time as requested by Valley Water within three (3) days of Valley Water’s written notice to the Administrative Agent requesting such reduction in the form of Exhibit C hereto; *provided*, that (i) each such reduction amount shall be in an amount equal to \$1,000,000 or an integral multiple of \$100,000 in excess thereof, (ii) any reduction in the Available Commitment shall not be effective until the Administrative Agent delivers to Valley Water a notice in the form attached hereto as Exhibit D reflecting such reduction, and (iii) at no time shall the outstanding principal amount of Certificates and Term Loans exceed the Available Commitment from time to time in effect.

(b) Valley Water may at any time and at its sole option terminate the Commitment upon three (3) Business Days’ prior written notice to the Administrative Agent in the form of Exhibit C hereto. As a condition to any such termination, Valley Water shall pay or cause to be

paid all Obligations to the Administrative Agent, including but not limited to any fees or obligations under the Fee Letter.

(c) Valley Water shall be required, upon any reduction or termination of the Available Commitment prior to the first anniversary of the Closing Date, to pay the Administrative Agent, for the ratable benefit of the Lenders, a fee (“*Commitment Reduction Fee*”) equal to the greater of zero, or that amount, calculated on any date of such reduction through the first anniversary of the Closing Date, which is derived by multiplying: (a) the amount of the reduction of the Available Commitment (or terminated Available Commitment), *times* (b) the Commitment Fee Rate in effect on the date of such reduction or termination, *times* (c) a fraction, the numerator of which is the number of days from and including the date of such reduction or termination to and including the first anniversary of the Closing Date, and the denominator of which is 360; *provided, however*, that the Commitment Reduction Fee shall not in any event violate any applicable law; *provided further* that no Commitment Reduction Fee shall be required if such reduction or termination arises after (i) the implementation of a Benchmark Replacement with respect to which Valley Water has provided written notice of its objection to such Benchmark Replacement (with a reasonably detailed explanation thereof) to the Administrative Agent, and Valley Water has made a good faith effort to resolve such object to the mutual satisfaction of Valley Water and the Administrative Agent, or (ii) the Administrative Agent shall have invoked and Valley Water shall have paid any amounts with respect to increased costs arising under Section 3.02 hereof.

(d) Valley Water hereby acknowledges that Valley Water shall be required to pay the Commitment Reduction Fee with respect to any reduction or termination of the Available Commitment before the first anniversary of the Closing Date, whether voluntarily, involuntarily, or otherwise, including without limitation any principal payment made following default, demand for payment, acceleration, collection proceedings, foreclosure, sale or other disposition of collateral, bankruptcy or other insolvency proceedings, eminent domain, condemnation, application of insurance proceeds or otherwise. Such Commitment Reduction Fee shall at all times be an Obligation as well as an undertaking by Valley Water to the Lenders whether arising out of acceleration or a voluntary or mandated reduction.

SECTION 2.10. *Taxability.* (a) In the event a Taxable Date occurs, to the extent not paid to the Lenders and each other Holder pursuant to Section 2.04(b) hereof, Valley Water hereby agrees to cause to be paid to each Lender or the Holder of a Tax-Exempt Certificate on demand therefor (1) an amount equal to the difference between (A) the amount of interest that would have been paid to such Lender or the Holder of the Tax-Exempt Certificate, as applicable, with respect to any Tax-Exempt Certificate during the period for which interest with respect such Tax-Exempt Certificate is includable in the gross income of such Lender or the Holder of the Tax-Exempt Certificate, if such Tax-Exempt Certificate had borne interest at the Taxable Gross-Up Rate, beginning on the Taxable Date (the “*Taxable Period*”), and (B) the amount of interest actually paid to such Lender or the Holder of the Tax-Exempt Certificate, as applicable, during the Taxable Period, and (2) an amount equal to any interest, penalties or charges owed by such Lender or a Holder of the Tax-Exempt Certificate, as applicable, as a result of interest with respect to the Tax-Exempt Certificates becoming includable in the gross income of such Lender or such Holder of the Tax-Exempt Certificate, as applicable, together with any and all reasonable attorneys’ fees,

court costs, or other out-of-pocket costs incurred by such Lender or such Holder of the Tax-Exempt Certificate, as applicable, in connection therewith.

(b) The obligations of Valley Water under this Section 2.10 shall survive the termination of the Available Commitment and this Agreement.

SECTION 2.11. *Funding Indemnity.* In the event that any Lender shall incur any loss, cost, or expense (including, without limitation, any loss, cost, or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired or contracted to be acquired by such Lender to purchase or hold the Certificates or the relending or reinvesting of such deposits or other funds or amounts paid or prepaid to the Lenders) as a result of any repayment of the Certificates (including, without limitation, Certificates that are deemed to be paid with the proceeds of a Term Loan) on a date other than a LIBOR Reset Date, for any reason, whether before or after default, and whether or not such payment is required by any provision of this Agreement or any other Related Document, then upon the demand of the Administrative Agent or such Lender, Valley Water shall pay to the Administrative Agent for such Lender a fee in such amount as will reimburse such Lender for such loss, cost, or expense. If the Administrative Agent or the applicable Lender requests such fee, it shall provide to Valley Water a certificate setting forth the computation of the loss, cost, or expense giving rise to the request for such fee in reasonable detail and such certificate shall be conclusive if reasonably determined. Without prejudice to the survival of any other agreement of Valley Water hereunder, the agreements and obligations of Valley Water contained in this Section shall survive the termination of the Available Commitment and this Agreement and the payment in full of the Certificates and all other Obligations of Valley Water.

SECTION 2.12. *Extension of Commitment Expiration Date.* To the extent authorized under Valley Water Authorizing Resolution, Valley Water may request an extension of the Commitment Expiration Date in writing in the form of Exhibit B hereto not more than one (1) year prior to the then current Commitment Expiration Date and not less than 120 days prior to the then current Commitment Expiration Date. The Administrative Agent will make reasonable efforts to consult with the Lenders and respond to such request within sixty (60) days after receipt of all information necessary, in the Administrative Agent's judgment, to permit the Lenders to make an informed credit decision. If the Administrative Agent fails to definitively respond to such request within such 60-day period, the Lenders shall be deemed to have refused to grant the extension requested. The Lenders may, in their sole and absolute discretion, decide to accept or reject any such proposed extension and no extension shall become effective unless each Lender shall have consented thereto in writing in the form of Exhibit E hereto or otherwise. The Lenders' consent, if granted, shall be conditioned upon the preparation, execution and delivery of documentation in form and substance satisfactory to the Administrative Agent and the extending Lenders (which may include, but shall not be limited to the delivery of an Approving Opinion to the Lenders).

SECTION 2.13. *Security.* The Tax-Exempt Certificates represent undivided ownership interests in the Tax-Exempt TRANs, and the Taxable Certificates represent undivided ownership interests in the Taxable TRANs. [Payments made with respect to the TRANs shall be

assigned by the Corporation to the Trustee for the benefit of Holders of the Certificates.]¹¹ The obligation of Valley Water to make payments on the TRANs shall be a general obligation of Valley Water. In addition, pursuant to the TRANs Resolution, Valley Water has pledged Net Water Utility System Revenues of Valley Water on a subordinate basis to the payment of all Parity Obligations to additionally secure the payment of the principal of and interest on the TRANs in accordance with the Parity Master Resolution. Additionally, Valley Water hereby pledges its Net Water Utility System Revenues, the Water Utility System Revenue Fund, the Rate Stabilization Fund, the Special Purpose Funds, and all amounts on deposit in the Water Utility System Revenue Fund, the Rate Stabilization Fund, the Special Purpose Funds, to the payment of all Obligations of Valley Water and the Corporation hereunder (including, without limitation, Reimbursement Obligations), subordinate only to Senior Lien Obligations and to Parity Obligations. The Senior Lien Obligations and the Parity Obligations are the only Debt that is secured by and/or payable from Net Water Utility System Revenues on a basis senior to the TRANs and the Obligations.

The parties hereto acknowledge that Valley Water has pledged all Net Water Utility System Revenues, the Water Utility System Revenue Fund, the Rate Stabilization Fund, the Special Purpose Funds, and all amounts on deposit in the Water Utility System Revenue Fund, the Rate Stabilization Fund, the Special Purpose Funds, to the payment of all obligations of Valley Water and the Corporation to MUFG Union Bank, N.A., as the Series AB Bank (as defined in the Corporation Resolution) under the Series AB Reimbursement Agreement (as defined in the Corporation Resolution), subordinate only to Senior Lien Obligations and to Parity Obligations (the “*Series AB Bank Pledge*”).

SECTION 2.14. *Availability of LIBOR Rate; Adequacy of Interest Rate.*

(a) Notwithstanding anything to the contrary in this Agreement or any other Related Document, if the Administrative Agent determines (which determination shall be conclusive absent manifest error), or the Required Lenders notify the Administrative Agent that the Required Lenders have determined, that:

(i) deposits of a type and maturity appropriate to match fund the Certificates are not available to such Lenders in the relevant market, or

(ii) the interest rate applicable to Certificates for any requested Interest Period is not ascertainable or available (including, without limitation, because the applicable Reuters Screen (or on any successor or substitute page on such screen) is unavailable) or does not adequately and fairly reflect the cost of making or maintaining the Certificates,

then the Administrative Agent shall suspend the availability of the LIBOR Rate and require any affected Certificates to be repaid or converted to Certificates bearing interest at the Base Rate (*provided* that if the Base Rate is applied pursuant to this clause (a), the Base Rate shall be determined exclusive of clause (iii) of the definition of Base Rate), subject to the payment of any funding indemnification amounts required by Section 2.11.

¹¹ Corporation Resolution to conform.

(b) Notwithstanding the foregoing or anything to the contrary in this Agreement or any other Related Document, if the Administrative Agent determines (which determination shall be conclusive absent manifest error), or the Required Lenders notify the Administrative Agent (with a copy to Valley Water) that the Required Lenders have determined, that any one or more of the following (each, a “*Benchmark Transition Event*”) has occurred:

(i) the circumstances set forth in Section 2.14(a)(ii) have arisen (including, without limitation, a public statement or publication of information by the regulatory supervisor for the administrator of LIBOR described in clause (ii) of this Section 2.14(b) announcing that LIBOR is no longer representative) and such circumstances are unlikely to be temporary,

(ii) ICE Benchmark Administration (or any Person that has taken over the administration of LIBOR for deposits in Dollars that is acceptable to the Administrative Agent) discontinues its administration and publication of LIBOR for deposits in Dollars,

(iii) a public statement or publication of information by or on behalf of the administrator of LIBOR described in clause (ii) of this Section 2.14(b) announcing that such administrator has ceased or will cease as of a specific date to provide LIBOR (permanently or indefinitely); *provided* that, at the time of such statement, there is no successor administrator that is acceptable to the Administrative Agent that will continue to provide LIBOR after such specified date,

(iv) a public statement by the supervisor for the administrator of LIBOR described in clause (ii) of this Section 2.14(b), the U.S. Federal Reserve System, an insolvency official with jurisdiction over such administrator for LIBOR, a resolution authority with jurisdiction over such administrator for LIBOR or a court or an entity with similar insolvency or resolution authority over such administrator for LIBOR, which states that such administrator of LIBOR has ceased or will cease as of a specific date to provide LIBOR (permanently or indefinitely); *provided* that, at the time of such statement or publication, there is no successor administrator that is acceptable to the Administrative Agent that will continue to provide LIBOR after such specified date; or

(v) syndicated credit facilities reasonably comparable to the credit facilities under this Agreement being executed at such time, or that include language substantially similar to that contained in this Section 2.14(b), are being executed or amended, as the case may be, to incorporate or adopt a new benchmark interest rate to replace LIBOR for deposits in Dollars or in the applicable Agreed Currency,

then the Administrative Agent and Valley Water may amend this Agreement to replace the LIBOR Rate with a Benchmark Replacement. Notwithstanding anything to the contrary in Section 10.01 hereof, any such amendment with respect to a Benchmark Transition Event (A) pursuant to any of clauses (i) through (iv) of this Section 2.14(b) will become effective without any further action or consent of any other party to this Agreement at 5:00 p.m. (San Francisco time) on the fifth Business Day after the Administrative Agent has posted such proposed amendment to all Lenders and Valley Water so long as the Administrative Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Required Lenders or (B) pursuant to clause (v) of this Section 2.14(b), will become effective without any further action or consent of any other party to this Agreement on the date that Lenders

comprising the Required Lenders have delivered to the Administrative Agent written notice that such Required Lenders accept such amendment; *provided* that, if the notice of a Benchmark Trigger Event pursuant to clause (v) has been provided by the Required Lenders and not the Administrative Agent and such notice specifies the Benchmark Replacement, then the Lenders comprising the Required Lenders shall be deemed to have accepted such amendment on the date such amendment has been posted by the Administrative Agent to all Lenders. No replacement of LIBOR with a Benchmark Replacement pursuant to this Section 2.14(b) will occur prior to the date set forth in the applicable amendment.

In connection with the implementation of a Benchmark Replacement, the Administrative Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Related Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement.

The Administrative Agent will promptly notify Valley Water and the Lenders of (1) any occurrence of a Benchmark Transition Event (other than pursuant to clause (v) of this Section 2.14(b)), (2) the implementation of any Benchmark Replacement, (3) the effectiveness of any Benchmark Replacement Conforming Changes and (4) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or Lenders pursuant to this Section 2.14(b), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party hereto, except, in each case, as expressly required pursuant to this Section 2.14(b).

(c) Upon notice to Valley Water by the Administrative Agent in accordance with Section 10.02 of the commencement of a Benchmark Unavailability Period and until a Benchmark Replacement is determined in accordance with this Section 2.14(b), any Request to Purchase a Certificate pursuant to Section 2.03 may be revoked by Valley Water and if not revoked such Certificate shall bear interest at the Base Rate (*provided* that if the Base Rate is applied pursuant to this clause (c), the Base Rate shall be determined exclusive of clause (iii) of the definition of Base Rate).

SECTION 2.15. *Notification of Purchase of Certificates; Interest Rates, Prepayments and Commitment Reductions.* Promptly after receipt thereof, the Administrative Agent shall notify each Lender of the contents of each Available Commitment reduction notice and Request for Purchase received by it hereunder. The Administrative Agent shall notify each Lender of the interest rate applicable to each Certificate and each Term Loan promptly upon determination of such interest rate and shall give each Lender prompt notice of each change in the LIBOR Rate and Base Rate, as applicable.

SECTION 2.16. *Non-Receipt of Funds by the Administrative Agent.* Unless Valley Water or a Lender notifies the Administrative Agent before the date on which it is scheduled to make payment to the Administrative Agent of (a) in the case of a Lender, the proceeds for the

purchase of a Certificate, or (b) in the case of Valley Water, a payment of principal, interest or fees to the Administrative Agent for the account of the Lenders, that it does not intend to make such payment, the Administrative Agent may assume that such payment has been made. The Administrative Agent may, but is not obligated to, make the amount of such payment available to the intended recipient in reliance upon such assumption. If such Lender or Valley Water, as the case may be, has not in fact made such payment to the Administrative Agent, the recipient of such payment shall, on demand by the Administrative Agent, repay to the Administrative Agent the amount so made available together with interest thereon in respect of each day during the period commencing on the date such amount was so made available by the Administrative Agent until the date the Administrative Agent recovers such amount at a rate per annum equal to (x) in the case of payment by a Lender, the Federal Funds Rate for such day for the first three days and, thereafter, the interest rate applicable to the relevant Certificate or (y) in the case of payment by Valley Water, the interest rate applicable to the relevant Certificate.

SECTION 2.17. *Sharing of Payments.* (a) If any Lender, by exercising any right of setoff or counterclaim or otherwise, obtains payment in respect of any principal of or interest on any of its Certificates, Term Loans or other obligations hereunder resulting in such Lender receiving payment of a proportion of the aggregate amount of its Certificates, Term Loans or other such obligations greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (x) notify the Administrative Agent of such fact, and (y) purchase (for cash at face value) participations in the Certificates, Term Loans and such other obligations from the other Lenders, or make such other adjustments as are equitable, so that the benefit of all such payments is shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Certificates, Term Loans and other amounts owing them; *provided that*:

(i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section 2.17 shall not be construed to apply to (A) any payment made by Valley Water pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), or (B) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Certificates or Term Loans to any assignee or participant, other than to Valley Water (as to which the provisions of this Section 2.17 shall apply).

(b) Valley Water consents to the foregoing and agrees, to the extent it may effectively do so under applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against Valley Water rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of Valley Water in the amount of such participation.

SECTION 2.18. *Defaulting Lenders.* (a) *Defaulting Lender Adjustments.* Notwithstanding anything to the contrary in this Agreement, if any Lender becomes a Defaulting

Lender, then, until such Lender is no longer a Defaulting Lender, to the extent permitted by Applicable Law:

(i) *Waivers and Amendments.* Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders and Section 10.01(b).

(ii) *Defaulting Lender Waterfall.* Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 10.05 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, as Valley Water may request (so long as no Default or Event of Default exists), to the purchase of any Certificate in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; third, if so determined by the Administrative Agent and Valley Water, to be held in a deposit account and released pro rata to satisfy such Defaulting Lender's potential future purchase obligations with respect to Certificates under this Agreement; fourth, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; fifth, so long as no Default or Event of Default exists, to the payment of any amounts owing to Valley Water as a result of any judgment of a court of competent jurisdiction obtained by Valley Water against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; sixth, if so determined by the Administrative Agent, distributed to the Lenders other than the Defaulting Lender until the ratio of the Available Commitment of such Lenders to the total Available Commitment equals such ratio immediately prior to the Defaulting Lender's failure to purchase any amount of any Certificate; and seventh, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if (x) such payment is a payment of the purchase price of any Certificate in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Certificates were issued at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to repay all Non-Defaulting Lenders on a pro rata basis prior to being applied to repay any principal obligations owing to such Defaulting Lender until such time as all Certificates and Term Loans are held by the Lenders pro rata in accordance with their Commitments without giving effect to Section 2.18(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.18(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) *Certain Fees.* No Defaulting Lender shall be entitled to receive any Commitment Fee for any period during which that Lender is a Defaulting Lender (and

Valley Water shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(b) *Defaulting Lender Cure.* If Valley Water and the Administrative Agent agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein, that Lender will, to the extent applicable, purchase at par that portion of outstanding Certificates or Term Loans, as applicable, of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Certificates or Term Loans, as applicable, to be held pro rata by the Lenders in accordance with their Commitments), whereupon such Lender will cease to be a Defaulting Lender; *provided* that (i) no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of Valley Water while that Lender was a Defaulting Lender; and (ii) except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

SECTION 2.19. *Incremental Commitments .*

(a) *Request for Increase.* Valley Water may, by written notice to the Administrative Agent (who shall promptly notify the Lenders), request an increase in the Available Commitment (each such increase, an "*Incremental Commitment*") in an aggregate amount (for all such requests) not exceeding \$30,000,000; *provided* that (i) any such request shall be in a minimum amount of the lesser of (x) \$1,000,000 (or such lesser amount as may be approved by the Administrative Agent) and (y) the entire remaining amount of increases available under this Section 2.19 and (ii) Valley Water shall make no more than a total of two (2) requests for Incremental Commitments under this Section 2.19.

(b) *Incremental Lenders.* An Incremental Commitment may be provided by any existing Lender or other Person that is a Lender Transferee or a Non-Lender Transferee or a **[Community Bank as defined in [Policy]]** (each such Person that agrees to provide an Incremental Commitment an "*Incremental Lender*"); *provided* that each Incremental Lender shall be subject to the consent (in each case, not to be unreasonably withheld or delayed) of the Administrative Agent. Notwithstanding anything herein to the contrary, no Lender shall have any obligation to agree to provide an Incremental Commitment, and any election to do so shall be in the sole discretion of such Lender.

(c) *Incremental Effective Date.* The Administrative Agent and Valley Water shall determine the effective date for each Incremental Commitment pursuant to this Section 2.19 (an "*Incremental Effective Date*") and, if applicable, the final allocation of such Incremental Commitment among the Persons providing it, which date shall be a Business Day at least 10 Business Days after delivery of the request pursuant to Section 2.19(a) (unless otherwise approved by the Administrative Agent) and at least 30 days before the Commitment Expiration Date.

(d) *Conditions to Effectiveness.* Notwithstanding the foregoing, no Incremental Commitments shall be effective with respect to any Incremental Lender unless:

(i) no Default or Event of Default has occurred and is continuing on the Incremental Effective Date and after giving effect to such Incremental Commitment;

(ii) the representations and warranties in this Agreement are true and correct on and as of the Incremental Effective Date and after giving effect to such increase, as though made on and as of such date (or, if any such representation or warranty is expressly stated to have been made as of a specific date, as of such specific date);

(iii) the Administrative Agent has received the documents required pursuant to Section 2.19(e); and

(iv) the Administrative Agent has received such legal opinions and other documents reasonably requested by the Administrative Agent in connection therewith.

As of such Incremental Effective Date, upon the satisfaction of the foregoing conditions, the Administrative Agent shall record the information about the applicable Incremental Commitment in its ledger as registrar of the Master Certificates and give prompt notice thereof to Valley Water and the Lenders (including each Incremental Lender).

(e) *Terms of Incremental Commitments.*

(i) *Joinder.* Valley Water, the applicable Incremental Lender(s) and the Administrative Agent (but no other Lenders or Persons) shall enter into one or more joinder agreements, each in form and substance satisfactory to Valley Water and the Administrative Agent, pursuant to which the applicable Incremental Lender(s) will provide the Incremental Commitment(s). Effective as of the applicable Incremental Effective Date, subject to the terms and conditions set forth in this Section 2.19, each Incremental Commitment shall be part of the Available Commitment (and not a separate facility hereunder), each Incremental Lender providing such Incremental Commitment shall be, and have all the rights of, a Lender, and the deemed purchases of Certificates made by it on such Incremental Commitment Effective Date pursuant to Section 2.19(e)(ii) shall be Certificates, for all purposes of this Agreement. For the avoidance of doubt, except as otherwise expressly set forth herein, all terms and conditions applicable to the Incremental Commitment shall be identical to the terms and conditions applicable to the existing Available Commitment.

(ii) *Adjustments to Certificates Outstanding.* Upon the Incremental Effective Date for each Incremental Commitment, if there are purchased Certificates then outstanding hereunder, Valley Water shall prepay such Certificates (and pay any additional amounts required pursuant to Section 2.11 in connection therewith), and request the purchase of Certificates by the Incremental Lender(s), so that, after giving effect to such prepayments and borrowings, all purchased Certificates will be held ratably by the Lenders (including the Incremental Lender(s)) in accordance with their Available Percentage of the Available Commitment after giving effect to the applicable Incremental Commitment(s).

(f) This Section 2.19 supersedes any provision in 10.01(a) to the contrary.

ARTICLE III

TAXES AND YIELD PROTECTION AND ILLEGALITY

SECTION 3.01. *Net of Taxes, Etc.* (a) Any and all payments to any Lender or any Holder by Valley Water or the Corporation hereunder or with respect to the Certificates or any Term Loans shall be made free and clear of and without deduction or withholding for any Taxes, except as required by applicable Law. If Valley Water or the Corporation shall be required by law to deduct or withhold any Taxes imposed by the United States of America or any political subdivision thereof from or in respect of any sum payable hereunder or with respect to the Certificates or any Term Loans and, if such Tax is an Indemnified Tax or Other Tax, then (i) the sum payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) such Lender or such Holder receives an amount equal to the sum it would have received had no such deductions been made, (ii) Valley Water or the Corporation, as applicable, shall make such deductions and (iii) Valley Water or the Corporation, as applicable, shall timely pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law. If Valley Water or the Corporation shall make any payment under this Section to or for the benefit of such Lender or such Holder with respect to Indemnified Taxes and if such Lender or such Holder shall claim any credit or deduction for such Indemnified Taxes against any other taxes payable by such Lender or such Holder to any taxing jurisdiction in the United States of America then such Lender or such Holder shall pay to Valley Water or the Corporation, as applicable, an amount equal to the amount by which such other taxes are actually reduced or refunded, net of all reasonable out-of-pocket expenses (including Taxes) of such Lender or such Holder and without interest (other than any interest paid by the relevant Governmental Authority with respect to such reduction or refund); *provided*, that the aggregate amount payable by such Lender or such Holder pursuant to this sentence shall not exceed the aggregate amount previously paid by Valley Water or the Corporation, as applicable, with respect to such Indemnified Taxes. In addition, Valley Water agrees to pay timely any present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise under the laws of the United States of America or any state of the United States from any payment made hereunder or under the Certificates or from the execution or delivery of this Agreement or the Certificates, or from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement or the Certificates (hereinafter referred to as “*Other Taxes*”). Such Lender or such Holder shall provide to Valley Water within a reasonable time a copy of any written notification it receives with respect to Indemnified Taxes or Other Taxes owing by Valley Water to such Lender or such Holder hereunder; *provided*, that such Lender or such Holder’s failure to send such notice shall not relieve Valley Water of its obligation to pay such amounts hereunder.

(b) Valley Water shall, to the fullest extent permitted by law and subject to the provisions hereof, pay such Lender or such Holder for the full amount of Indemnified Taxes and Other Taxes including any Indemnified Taxes or Other Taxes imposed by any jurisdiction on amounts payable under this Section paid by such Lender or such Holder or any liability (including penalties, interest and reasonable expenses) arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally asserted; *provided*, that Valley Water shall not be obligated to pay such Lender or such Holder for any penalties, interest

or expenses relating to Indemnified Taxes or Other Taxes arising from such Lender's or such Holder's gross negligence or willful misconduct. Such Lender or such Holder agrees to give notice to Valley Water of the assertion of any claim against such Lender or such Holder relating to such Indemnified Taxes or Other Taxes as promptly as is practicable after being notified of such assertion; *provided*, that such Lender or such Holder's failure to notify Valley Water promptly of such assertion shall not relieve Valley Water of its obligation under this Section. Payments by Valley Water pursuant to this Section shall be made within thirty (30) days from the date such Lender or such Holder makes written demand therefor, which demand shall be accompanied by a certificate describing in reasonable detail the basis thereof. Such Lender or such Holder agrees to repay to Valley Water any refund (including that portion of any interest that was included as part of such refund) with respect to Indemnified Taxes or Other Taxes paid by Valley Water pursuant to this Section received by such Lender or such Holder for Indemnified Taxes or Other Taxes that were paid by Valley Water pursuant to this Section.

(c) Within thirty (30) days after the date of any payment of Indemnified Taxes by Valley Water, Valley Water shall furnish to such Lender or such Holder, as applicable, the original or a certified copy of a receipt evidencing payment thereof.

(d) Each Lender shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that Valley Water has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of Valley Water to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 10.06(d)(ii) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Related Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Related Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this Section 3.01(d).

(d) Without prejudice to the survival of any other agreement of Valley Water or any Lender hereunder, the agreements and obligations of Valley Water, the Corporation and the Lenders contained in this Section shall survive the termination of this Agreement and the payment in full of the Obligations.

SECTION 3.02. *Increased Costs.* (a) 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 advances, loans or other credit extended or participated in by, any Lender or any other Holder (except any reserve requirement reflected in the LIBOR Rate);

(ii) subject any Lender or any Holder to any Taxes of any kind whatsoever with respect to this Agreement or the Certificates, or change the basis of taxation of payments to such Lender or such Holder in respect thereof (except for Indemnified Taxes covered by Section 3.01 hereof and the imposition of, or any change in the rate of any Excluded Tax payable by such Lender or such Holder); or

(iii) impose on any Lender or any Holder any other condition, cost or expense affecting this Agreement or the Certificates;

and the result of any of the foregoing shall be to increase the cost to such Lender or such Holder of owning the Certificates or maintaining a Term Loan (or of maintaining its obligation to purchase the Certificates or make a Term Loan), or to reduce the amount of any sum received or receivable by such Lender or such Holder hereunder or under the Certificates (whether of principal, interest or any other amount) then, upon written request of such Lender or such Holder as set forth in subsection (c) below, Valley Water shall promptly pay to such Lender or such Holder, as the case may be, such additional amount or amounts as will compensate such Lender or such Holder, as the case may be, for such additional costs incurred or reduction suffered.

(b) *Capital Requirements.* If such Lender or any Holder determines that any Change in Law affecting such Lender or such Holder or the such Lender's or such Holder's parent or holding company, if any, regarding capital or liquidity requirements, has or would have the effect of reducing the rate of return on such Lender's or such Holder's capital or liquidity or the capital or liquidity of such Lender's or such Holder's parent or holding company holding, if any, as a consequence of this Agreement, or ownership of the Certificates or making of Term Loans, to a level below that which such Lender or such Holder or such Lender's or such Holder's parent or holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Holder's policies and the policies of such Lender's or such Holder's parent or holding company with respect to capital adequacy and liquidity), then from time to time upon written request of such Lender or such Holder as set forth in subsection (c) below, Valley Water shall promptly pay to such Lender or such Holder, as the case may be, such additional amount or amounts as will compensate such Lender or such Holder or such Lender's or such Holder's parent or holding company for any such reduction suffered.

(c) *Certificates for Reimbursement.* A certificate of any Lender or any Holder setting forth the amount or amounts necessary to compensate any such Lender or any such Holder or such Lender's or any such Holder's parent or holding company, as the case may be, as specified in subsection (a) or (b) above and delivered to Valley Water, shall be conclusive absent manifest error. Valley Water shall pay such Lender or any such Holder, as the case may be, the amount shown as due on any such certificate within ten (10) days after receipt thereof. Failure or delay on the part of any Lender or Holder to demand compensation pursuant to Section 3.01 shall not constitute a waiver of such Lender's or Holder's right to demand such compensation; *provided* that Valley Water shall not be required to compensate a Lender or Holder pursuant to Section 3.01 for any increased costs incurred or reductions suffered more than nine (9) months prior to the date that such Lender or Holder notifies Valley Water of the Change in Law giving rise to such increased costs or reductions, and of such Lender'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-month period referred to above shall be extended to include the period of retroactive effect thereof).

(d) *Participants and Holders.* Each Participant will be entitled to the benefits of Section 3.01 and this Section 3.02 to the same extent as the applicable Lender or applicable Holder. Notwithstanding anything in Section 3.01 or this Section 3.02 to the contrary, in no event shall Valley Water be required to pay to any Participant or any Holder other than a Lender any increased cost or amount for taxes under Section 3.01 or this Section 3.02 in excess of the amount Valley Water would have paid to such Lender if such Lender had not entered into a participation with such Participant or made an assignment to such Holder, as applicable.

SECTION 3.03. *Margin Regulations.* No portion of the proceeds of any Purchase shall be used by Valley Water (or the Trustee, the Paying Agent or any other Person on behalf of Valley Water) for the purpose of “purchasing” or “carrying” any margin stock or used in any manner which might cause the borrowing or the application of such proceeds to violate Regulation U, Regulation T, or Regulation X of the Board of Governors of the Federal Reserve System or any other regulation of said Board of Governors or to violate the Securities Exchange Act of 1934, as amended, in each case as in effect on the date or dates of such Purchases, and such use of proceeds.

SECTION 3.04. *Maximum Rate; Payment of Fee.* If the rate of interest payable on or with respect to the Certificates, any Term Loans, or any other Obligations hereunder shall exceed the applicable Maximum Rate for any period for which interest is payable, then (i) interest at such Maximum Rate shall be due and payable with respect to such interest period and (ii) interest at the rate equal to the difference between (A) the rate of interest calculated in accordance with the terms hereof and (B) such Maximum Rate (the “*Excess Interest*”), shall be deferred until such date as the rate of interest calculated in accordance with the terms hereof ceases to exceed such Maximum Rate, at which time Valley Water shall pay or cause to be paid to the Administrative Agent for the ratable benefit of each Lender, with respect to amounts then payable to the Lenders that are required to accrue interest hereunder, such portion of the deferred Excess Interest as will cause the rate of interest then paid to the Lenders to equal such Maximum Rate, which payments of deferred Excess Interest shall continue to apply to such unpaid amounts hereunder until all deferred Excess Interest is fully paid to the Lenders. Upon the termination of this Agreement, in consideration for any limitation of the rate of interest which may otherwise be payable on the Certificates, any Term Loans, or other Obligations hereunder, Valley Water shall pay or cause to be paid to the Administrative Agent for the ratable benefit of the Lenders a fee equal to the amount of all unpaid deferred Excess Interest (the “*Excess Interest Fee*”). In accordance with Section 5922 of the California Government Code, Valley Water hereby represents and warrants that the obligations of Valley Water under any Term Loans, Reimbursement Obligations and all other Obligations (other than the Certificates) hereunder are not subject to any limitation as to maximum interest rate.

SECTION 3.05. *Illegality.* If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable lending office to make, maintain, or fund Certificates whose interest is determined by reference to the LIBOR Rate, or to determine or charge interest rates based upon the LIBOR Rate, or any Governmental Authority has imposed material restrictions on the authority of such

Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, upon notice thereof by such Lender to Valley Water (through the Administrative Agent), any obligation of such Lender to purchase additional Certificates shall be suspended until such Lender notifies the Administrative Agent and Valley Water that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, Valley Water shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert the rate of interest on each Certificate of such Lender to bear interest at the Base Rate (*provided* that if the Base Rate is applied pursuant to this Section 3.05, the Base Rate shall be determined exclusive of clause (iii) of the definition of Base Rate), either on the last day of the Interest Period therefor, if such Lender can lawfully continue to maintain such interest rate to such day, or immediately, if such Lender cannot lawfully continue to maintain such interest rate. Upon any such prepayment or conversion, Valley Water shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 2.11 hereof.

SECTION 3.06. *Survival.* All of Valley Water's obligations under this Article III shall survive the termination of the Available Commitment and repayment of all Obligations hereunder.

ARTICLE IV

CONDITIONS PRECEDENT¹²

SECTION 4.01. *Conditions Precedent to Effectiveness.* As conditions precedent to the obligation of the Lenders to enter into this Agreement and to agree to purchase Certificates, Valley Water or the Corporation, as the case may be, shall provide to the Administrative Agent on the Closing Date, each in form and substance satisfactory to the Administrative Agent and the Administrative Agent's counsel, Chapman and Cutler LLP (hereinafter, "*Agent Counsel*"):

(a) *Documents and Approvals.* The Administrative Agent shall have received a copy of this Agreement executed by Valley Water, the Corporation and the Lenders, a copy of each executed Lender Note by Valley Water in favor of each Lender, a copy of the Fee Letter executed by each party thereto, and copies of all action taken by Valley Water and the Corporation approving the execution and delivery by Valley Water and the Corporation of this Agreement and the other Related Documents to which it is a party, in each case certified by an authorized official of Valley Water or the Corporation, as applicable, as complete and correct as of the date hereof.

(b) *Incumbency.* The Administrative Agent shall have received an incumbency certificate of (a) Valley Water in respect of each official who is authorized to sign this Agreement and the other Related Documents to which it is a party and take actions for Valley Water under this Agreement and the other Related Documents to which it is a party and (b) the Corporation in respect of each official who is authorized to sign this Agreement and the other Related Documents to which it is a party and take actions for the Corporation under this Agreement and the other Related Documents to which it is a party.

¹² Subject to ongoing diligence.

(c) *Opinion of Bond Counsel.* (i) The Administrative Agent shall have received a written opinion of Bond Counsel, addressed to the Administrative Agent and the Lenders, dated the Closing Date and in form and substance satisfactory to the Administrative Agent and Agent Counsel to the effect that (A) this Agreement, the Fee Letter, and the Lender Note have been duly authorized, executed and delivered by Valley Water and are the valid and binding obligations of Valley Water enforceable in accordance with their respective terms, except as may be limited by the valid exercise of judicial discretion and the constitutional powers of the United States of America and to valid bankruptcy, insolvency, reorganization or moratorium or other similar laws applicable to Valley Water and equitable principles relating to or affecting creditors' rights generally from time to time; (B) the execution and delivery by Valley Water of this Agreement, the Fee Letter, and, the Lender Notes, does not violate the constitution or laws of the State or conflict with the terms and provisions of any Related Document; (C) Valley Water has taken all actions, and has obtained any approvals, necessary to the authorization, execution, delivery and performance by Valley Water of this Agreement, the Fee Letter, and the Lender Notes; (D) this Agreement has been duly authorized, executed and delivered by the Corporation and is the valid and binding obligation of the Corporation enforceable in accordance with its terms, except as may be limited by the valid exercise of judicial discretion and the constitutional powers of the United States of America and to valid bankruptcy, insolvency, reorganization or moratorium or other similar laws applicable to the Corporation and equitable principles relating to or affecting creditors' rights generally from time to time; (E) the execution and delivery by the Corporation of this Agreement, does not violate the constitution or laws of the State; and (F) the Corporation has taken all actions, and has obtained any approvals, necessary to the authorization, execution, delivery and performance by the Corporation of this Agreement; and (ii) the Administrative Agent shall have received a written opinion of Bond Counsel, addressed to the Administrative Agent, the Lenders and their successors and assigns, dated the Closing Date and in form and substance satisfactory to the Administrative Agent and Agent Counsel to the effect that the interest with respect to the Tax-Exempt Certificates purchased by the Lenders from time to time as provided for herein is excludable from gross income for federal and California state income tax purposes, and including an acknowledgement that the Lenders will rely on such opinion in connection with each Purchase of Tax-Exempt Certificates unless it receives a notice described in Section 4.02(g) below.

(d) *Opinion of Counsel to Valley Water and the Corporation.* The Administrative Agent shall have received written opinions of counsel to Valley Water and counsel to the Corporation, each addressed to the Administrative Agent and the Lenders, dated the Closing Date and in the form and substance satisfactory to the Administrative Agent and Agent Counsel.

(e) *Governmental Approvals.* The Administrative Agent shall have received true and correct copies of all Governmental Approvals, if any, necessary for Valley Water or the Corporation, as applicable, to execute, deliver and perform the Related Documents to which it is a party and to authorize Valley Water to induce the issuance of the Certificates.

(f) *Trustee.* Certificates of the Trustee evidencing the signatures and offices of officers of each executing the Related Documents, and with respect to such other matters as the Administrative Agent may reasonably request, and an opinion of counsel to the Trustee, in form

and substance satisfactory to the Administrative Agent and its counsel, and addressed to the Lenders and their successors and assigns.

(g) *Related Documents.* The Administrative Agent shall have received a copies of the Parity Master Resolution and each amendment or supplement thereto, the Issuing and Paying Agent Agreement, the Corporation Resolution and the other Related Documents in form and substance satisfactory to the Administrative Agent, all to the extent requested by the Administrative Agent, certified by an authorized officer of Valley Water or the Corporation, as applicable, as being in full force and effect.

(h) *No Default, Etc.* (i) No Default or Event of Default shall have occurred and be continuing as of the date hereof or will result from the execution, delivery, and performance by Valley Water and the Corporation of this Agreement or any Related Document to which Valley Water or the Corporation is a party, (ii) the representations and warranties made by Valley Water and the Corporation in Article V hereof shall be true and correct in all material respects (or in all respects to the extent qualified by materiality or similar concepts) on and as of the Closing Date, as if made on and as of such date, (iii) all conditions precedent to the effectiveness of the Agreement set forth in this Section 4.01 have been satisfied and (iv) the Administrative Agent shall have received certificates, given and made as of the Closing Date, from each of Valley Water and the Corporation to the foregoing effect.

(i) *Financial Information.* The Administrative Agent shall have received certified copies of the Investment Policy of Valley Water, the projected operating budget and financial statements of Valley Water for three years beyond the Closing Date, including debt issuance levels and rate projections, the audited financial statements for Valley Water for the fiscal year ended June 30, 2019.

(j) *Fees, Etc.* The Administrative Agent shall have received payment of, or provision satisfactory to the Administrative Agent shall have been made for the payment of, the fees, costs and expenses set forth herein and in the Fee Letter that are payable on the Closing Date (including without limitation, payment of the fees and expenses of the Administrative Agent's counsel).

(k) *Legality; Material Adverse Change.* The Administrative Agent shall have determined (in its sole discretion) that (i) neither the purchase of any Certificate nor the consummation of any of the transactions contemplated by this Agreement or the other Related Documents will violate any law, rule, guideline or regulation applicable to Valley Water, the Corporation, the Lenders or this Agreement, (ii) no material adverse change in the ratings, financial condition, business, assets, liabilities or prospects of Valley Water shall have occurred since June 30, 2019, (iii) Valley Water has not received notice from the Rating Agencies that the long-term unenhanced ratings of the Parity Obligations have been withdrawn, reduced or suspended for credit-related reasons since the dated date of the rating documentation provided pursuant to paragraph (1) below and (iv) there has been no material adverse change in the laws, rules or regulations (or their interpretation or administration) that, in any case, may adversely affect the consummation of the transactions contemplated hereby or by any Related Document.

(l) *Ratings.* The Administrative Agent shall have received satisfactory evidence that Moody's and Fitch shall have assigned an underlying rating of "Aa1" and "AA+," respectively, on the long-term, unenhanced Parity Obligations of Valley Water.

(m) *Reserved.*

(n) *Other Documents.* The Administrative Agent shall have received such other documents, certificates, and opinions as the Administrative Agent and Agent Counsel shall have reasonably requested.

(o) *Certificates.* Each of the Master Certificates shall be executed and delivered in physical certificated form and registered in the name of the Administrative Agent.

SECTION 4.02. *Conditions Precedent Purchases.* The obligation of the Lenders to Purchase each Certificate is subject to the satisfaction of the following conditions precedent on each applicable Purchase Date:

- (a) no Default or Event of Default shall have occurred and be continuing;
- (b) The representations and warranties of Valley Water set forth in Section 5.01 hereof shall be true and correct on and as of such date, as if made on such date;
- (c) the representations and warranties of the Corporation set forth in Section 5.02 hereof shall be true and correct on and as of such date, as if made on such date;
- (d) the Administrative Agent shall have received a Request for Purchase as required under, and in strict conformity with, Section 2.03 hereof;
- (e) the TRAN that such Certificate relates to shall be issued and outstanding;
- (f) the principal amount of such Certificate does not exceed the Available Commitment as of such Purchase Date; and
- (g) with respect the Purchase of a Tax-Exempt Certificate only, neither Valley Water nor the Administrative Agent shall have received written notice from Bond Counsel that the approving opinion delivered pursuant to Section 4.01(c)(ii) hereof may no longer be relied upon.

Unless Valley Water shall have previously advised the Administrative Agent in writing that (i) any or all of the representations and warranties contained in Article V of this Agreement are not true and correct in all material respects as of such Purchase Date or (ii) any event has occurred and is continuing, or would result from any Lender purchasing such Certificate, which constitutes a Default or Event of Default, then Valley Water shall be deemed to have represented and warranted on Purchase Date that (x) the representations and warranties contained in Article V of this Agreement are true and correct in all material respects as of such date, (y) no event has occurred and is continuing, or would result from such Lender purchasing such Certificate, which

constitutes a Default or Event of Default, and (z) the conditions precedent set forth in the foregoing clauses (a) through (g), excluding clause (d), are satisfied on the date of such Purchase Date.

SECTION 4.03. *No Certificate Rating; DTC; Offering Document.* The parties hereto acknowledge that the Certificates shall not be (i) assigned a specific rating by any Rating Agency, (ii) registered with The Depository Trust Company or any other securities depository, (iii) issued pursuant to any type of official statement, private placement memorandum or other offering document, (iv) placed or offered by a broker-dealer in the capacity of an underwriter or a placement agent, (v) assigned a CUSIP number or (vi) posted directly by the Administrative Agent or any Lender to EMMA.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

SECTION 5.01. *Representations of Valley Water.* In order to induce the Lenders to enter into this Agreement, Valley Water hereby represents and warrants to each Lender, as follows:

(a) *Organization and Authorization.* Valley Water is a flood control and water district duly organized and validly existing under the Constitution and laws of the State.

(b) *Authority to Adopt or Execute Documents.* Valley Water had, as of the date of adoption thereof, full power and authority to adopt each of the Resolutions and its resolution authorizing the execution and delivery of this Agreement and the other Related Documents (excluding any future amendments to this Agreement or any Related Document) to which it is a party and the transactions contemplated hereby and thereby, and has, or had as of the date of execution and delivery, full power and authority to execute and deliver this Agreement and the Related Documents to which it is a party, and has full power and authority to perform its obligations under each of the foregoing.

(c) *Obligations Legal, Valid and Binding.* (i) This Agreement and the Related Documents to which Valley Water is a party have been duly and validly authorized, executed and delivered and constitute the legal, valid and binding obligations of Valley Water enforceable against Valley Water in accordance with their respective terms, except insofar as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights and remedies generally, and by general principles of equity, and to the limitations on legal remedies against public agencies in the State of California.

(ii) *No Default.* Valley Water is not in default hereunder or under the Related Documents to which it is a party or under any other material mortgage, indenture, contract, agreement or undertaking to which it is a party or which purports to be binding on Valley Water or on any of its assets which default would materially adversely affect the ability of Valley Water to perform its obligations hereunder or under any of the Related Documents to which it is a party.

(d) *No Legal Bar.* (i) Valley Water is in compliance with and not in violation under any laws of the State which would adversely affect Valley Water's existence or its powers and authority referred to in Section 5.01(b) hereof.

(ii) *No Violation.* The execution, delivery and performance by Valley Water of this Agreement and the Related Documents to which it is a party, and all other agreements and instruments relating to this Agreement and the Related Documents executed and delivered by Valley Water in connection herewith and therewith (i) do not violate any provision of the Constitution of the State or the laws of the State or any other applicable law, regulation, order, writ, judgment or decree of any court, arbitrator or governmental authority, and (ii) do not violate any provision of, constitute a default under, or result in the creation or imposition of any Lien on any of the assets of Valley Water pursuant to the provisions of, any mortgage, resolution, indenture, contract, agreement or other undertaking to which Valley Water is a party or which purports to be binding on Valley Water or on any of its assets, other than the Liens created hereby or by the Related Documents, which violation would materially adversely affect the ability of Valley Water to perform its obligations hereunder or under any of the Related Documents to which it is a party.

(iii) *No Restrictions.* Valley Water is not a party to, or otherwise subject to, any provision contained in any instrument evidencing Debt of Valley Water, or any other contract or agreement which limits the amount of, or otherwise imposes restrictions on the incurring of, obligations of Valley Water that would materially adversely affect the ability of Valley Water to perform its obligations hereunder or under any of the Related Documents to which it is a party.

(iv) *Compliance with Laws.* Valley Water is in compliance with all Laws and its investment policy, except for such noncompliance that, singly or in the aggregate, has not caused or is not reasonably expected to cause a Material Adverse Effect.

(e) *Consents.* Valley Water has obtained, or will obtain on or before the Closing Date, all consents, permits, licenses and approvals of, and has made all filings, registrations and declarations with, governmental authorities required under law, to authorize the execution, delivery and sale of the Certificates, the execution, delivery and performance of this Agreement and the Related Documents to which it is a party and all other agreements delivered or to be delivered in connection with any thereof, and all such consents, permits, licenses, approvals, filings, registrations and declarations remain in full force and effect.

(f) *Litigation.* Except as disclosed to the Administrative Agent in writing prior to the Closing Date, there is no action, suit, investigation or proceeding, injury or investigation before or by any court, public board or body pending or threatened against or affecting Valley Water, in which an adverse determination could reasonably be expected to result in a Material Adverse Effect.

(g) *Disclosure.* The representations and statements made by Valley Water herein or in any Related Document, or made by Valley Water in any other document furnished to the

Administrative Agent by Valley Water in connection herewith or therewith are accurate as of the date of this Agreement. All financial statements of Valley Water furnished to the Administrative Agent were prepared in accordance with generally accepted accounting principles for government entities and applied on a consistent basis throughout the periods involved and are complete and correct and fairly present the financial condition of Valley Water as of such dates. Since the date of the most recent financial statements referred to in the preceding sentence, no Material Adverse Change has occurred in the business, operations or condition (financial or otherwise) of Valley Water.

(h) *Liens.* No filings, recordings, registrations or other actions are necessary to create and perfect the Liens provided for in the Resolutions and herein.

(i) *No Proposed Legal Changes.* To the knowledge of Valley Water, there is no amendment or proposed amendment certified for placement on a statewide or local ballot, to the Constitution of the State or any published administrative interpretation of the Constitution of the State or any State law, or any legislation that has passed either house of the State legislature, or any published judicial decision interpreting any of the foregoing, the effect of which is (i) to materially adversely affect the Certificates or any holder thereof in its capacity as such, or (ii) to materially adversely affect the ability of Valley Water to perform its obligations under this Agreement or any other Related Document to which it is a party.

(j) *No Immunity.* Valley Water is not entitled to sovereign immunity from any legal proceedings to enforce or collect upon this Agreement or any Related Document to which it is a party or the transactions contemplated hereby or thereby (including, without limitation, immunity from service of process and immunity from jurisdiction of any court or tribunal in respect of itself). To the extent that Valley Water has or hereafter may acquire under any applicable law any right to immunity from set-off or legal proceedings on the grounds of sovereignty, Valley Water hereby irrevocably waives, to the extent permitted by law, such rights to immunity for itself in respect of its obligations arising under or related to this Agreement or the Related Documents to which it is a party.

(k) *Tax-Exempt Status.* Valley Water has not taken any action or omitted to take any action, and knows of no action taken or omitted to be taken by any other Person, which action, if taken or omitted, would adversely affect the exclusion of interest on the Series C Certificates from gross income for Federal income tax purposes or the exemption of such interest from the State's personal income tax.

(l) *No Defaults.* No Default or Event of Default has occurred and is continuing under this Agreement, and no event of default or condition, event or act which with notice or lapse of time or both would become or constitute a default or event of default under, or as such term or terms is defined in, any other Related Document or agreements related thereto, has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement.

(m) *Other Documents.* The representations and warranties made by Valley Water in each of the Related Documents to which it is a party are hereby incorporated herein by this

reference and are hereby reaffirmed and restated by Valley Water for the benefit of the Lenders as if such representations and warranties were fully set forth herein. Except as otherwise provided herein, no amendment, modification, termination or replacement of any such representations, warranties, covenants and definitions contained in the Related Documents to which it is a party shall be effective to amend, modify, terminate or replace the representations, warranties, covenants and definitions incorporated herein by this reference, without the prior written consent of the Administrative Agent.

(n) *Regulations U and X* Valley Water is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U or X issued by the Board of Governors of the Federal Reserve System); and no proceeds of the Certificates will be used to extend credit to others for the purpose of purchasing or carrying any margin stock.

(o) *Environmental Matters.* Valley Water has not received notice to the effect that its operations are not in compliance with any of the requirements of applicable federal, state or local environmental, health and safety statutes and regulations or are the subject of any governmental investigation evaluating whether any remedial action is needed to respond to a release of any toxic or hazardous waste or substance into the environment, which non-compliance or remedial action could have a Material Adverse Effect.

(p) *Title to Property.* Valley Water has a valid and enforceable fee simple interest in the Water Utility System, subject only to Liens permitted under the Parity Master Resolution.

(q) *ERISA; Employee Benefit Plans.* Valley Water does not maintain or contribute to, and has not maintained or contributed to, any Plan that is subject to Title IV of ERISA. Valley Water has no funding deficiency with respect to any employee benefit plan which could reasonably be expected to materially and adversely affect the ability of Valley Water to perform its obligations hereunder or under any other Related Documents to which it is a party, and Valley Water is otherwise in compliance with terms of any such plan in which Valley Water or any of its employees participate to the extent any such failure to comply could reasonably be expected to materially and adversely affect the ability of Valley Water to perform its obligations hereunder or under any other Related Documents to which it is a party.

(r) *Security.* The Tax-Exempt Certificates represent undivided ownership interests in the Tax-Exempt TRANs, and the Taxable Certificates represent undivided ownership interests in the Taxable TRANs. Payments made with respect to the TRANs shall be assigned by the Corporation to the Trustee for the benefit of Holders of the Certificates. The obligation of Valley Water to make payments on the TRANs shall be a general obligation of Valley Water. In addition, pursuant to the TRANs Resolution, Valley Water has pledged Net Water Utility System Revenues of Valley Water on a subordinate basis to the payment of all Parity Obligations to additionally secure the payment of the principal of and interest on the TRANs in accordance with the Parity Master Resolution. Additionally, Valley Water hereby pledges its Net Water Utility System Revenues, the Water Utility System Revenue Fund, the Rate Stabilization Fund, the Special Purpose Funds, and all amounts on deposit in the Water Utility System Revenue Fund, the Rate Stabilization Fund, the Special Purpose Funds, to the payment of all Obligations of Valley Water

and the Corporation hereunder (including, without limitation, Reimbursement Obligations), subordinate only to Senior Lien Obligations and to Parity Obligations. The Senior Lien Obligations and the Parity Obligations are the only Debt that is secured by and/or payable from Net Water Utility System Revenues on a basis senior to the TRANs and the Obligations.

(s) *Insurance.* Valley Water currently maintains insurance 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 activities.

(t) *Usury; Maximum Rate.* The terms of this Agreement and the Related Documents regarding the calculation and payment of interest and fees do not violate any applicable usury laws.

(u) *Taxes.* Valley Water has filed all applicable Federal, state and other material tax returns and reports required to be filed, and has paid all applicable Federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon Valley Water or its properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with generally accepted accounting principles. There is no proposed tax assessment against Valley Water that would, if made, have a Material Adverse Effect.

(v) *Investment Company.* Valley Water is not an “investment company” or a company “controlled” by an “investment company,” as such terms are defined in the Investment Company Act of 1940, as amended.

(w) *Sanctions Concerns and Anti-Corruption Laws.* Valley Water is in compliance with Anti-Corruption Laws and all applicable Sanctions in all material respects. Valley Water has implemented and maintains in effect policies and procedures designed to ensure compliance with Anti-Corruption Laws and applicable Sanctions. None of Valley Water or, to the knowledge of Valley Water, any director, officer, employee, or affiliate of Valley Water, is an individual or entity that is owned or controlled by individuals or entities (including any agency, political subdivision or instrumentality of any government) that are (a) the target of any Sanctions or (b) located, organized or resident in a country or territory that is the subject of Sanctions (currently Crimea, Cuba, Iran, North Korea and Syria).

(x) *Concerning the Corporation Resolution and Issuing and Paying Agent Agreement.* All Obligations constitute Bank Obligations as defined in the Corporation Resolution. To the extent applicable, each Lender shall be the Series CD Bank for purposes of the Corporation Resolution; *provided, however,* with respect to any rights, remedies, duties or obligations designated to the Administrative Agent hereunder, the Administrative Agent shall be the sole Series CD Bank for such purposes under the Corporation Resolution. Each Lender, together with its successors and permitted assigns, is an Owner, as defined in the Corporation Resolution, of its respective Certificates. This Agreement is the Series CD Purchase and Reimbursement Agreement as defined in the Corporation Resolution. Attached hereto as *Exhibit I* is a fully executed copy of the Tax-Exempt TRAN, as defined in the Corporation Resolution, which is in full force and effect as of the Closing Date, and which has not been amended, restated, supplemented or otherwise modified. Attached hereto as *Exhibit J* is a fully executed copy of the Taxable TRAN, as defined

in the Corporation Resolution, which is in full force and effect as of the Closing Date, and which has not been amended, restated, supplemented or otherwise modified.

SECTION 5.02. *Representations of Corporation.* In order to induce the Lenders to enter into this Agreement, the Corporation hereby represents and warrants to the Administrative Agent, as follows:

(a) *Organization and Authorization.* The Corporation is a nonprofit public benefit corporation duly organized and existing under the laws of the State of California.

(b) *Authority to Adopt or Execute Documents.* The Corporation had, as of the date of adoption thereof, full power and authority to adopt its resolution authorizing the execution and delivery of this Agreement and the Related Documents to which it is a party and the transactions contemplated hereby and thereby, and has, or had as of the date of execution and delivery, full power and authority to execute and deliver this Agreement and the Related Documents to which it is a party, and has full power and authority to perform its obligations under each of the foregoing.

(c) *Obligations Legal, Valid and Binding.* (i) This Agreement and the Related Documents to which the Corporation is a party have been duly and validly authorized, executed and delivered, and constitute the legal, valid and binding obligations of the Corporation enforceable against the Corporation in accordance with their respective terms, except insofar as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights and remedies generally, and by general principles of equity.

(ii) The Corporation is not in default hereunder, or under the Related Documents to which it is a party or under any other material mortgage, indenture, contract, agreement or undertaking to which it is a party or which purports to be binding on the Corporation or on any of its assets which default would materially adversely affect the ability of the Corporation to perform its obligations hereunder or under any of the Related Documents to which it is a party.

(d) *No Legal Bar.* (i) The Corporation is in compliance with and not in violation under any laws of the State of California which would adversely affect the Corporation's existence or its powers and authority referred to in Section 5.02(b) hereof.

(ii) The execution, delivery and performance by the Corporation of this Agreement and the Related Documents to which it is a party, and all other agreements and instruments relating to all the foregoing executed and delivered by the Corporation in connection herewith and therewith (i) do not violate any provision of the Constitution or the laws of the State of California or any other applicable law, regulation, order, writ, judgment or decree of any court, arbitrator or governmental authority, and (ii) do not violate any provision of, constitute a default under, or result in the creation or imposition of any Lien on any of the assets of the Corporation pursuant to the provisions of, any mortgage, resolution, indenture, contract, agreement or other undertaking to which the Corporation is a party or which purports to be binding on the Corporation or on any of its

assets other than the Liens created hereby or by the Related Documents which violation would materially adversely affect the ability of the Corporation to perform its obligations hereunder or under any of the Related Documents to which it is a party.

(iii) The Corporation is not a party to, or otherwise subject to, any provision contained in any instrument evidencing Debt of the Corporation or any other contract or agreement which limits the amount of, or otherwise imposes restrictions on the incurring of, obligations of the Corporation that would adversely affect the ability of the Corporation to perform its obligations hereunder or under any of the Related Documents to which it is a party.

(iv) The Corporation is in compliance with all Laws, except for such noncompliance that, singly or in the aggregate, has not caused or is not reasonably expected to cause a Material Adverse Effect.

(e) *Consents.* The Corporation has obtained, or will obtain on or before the Effective Date, all consents, permits, licenses and approvals of, and has made all filings, registrations and declarations with, governmental authorities required under law, to authorize the execution, delivery and sale of the Certificates, the execution, delivery and performance of this Agreement and the Related Documents to which it is a party and all other agreements delivered or to be delivered in connection with any thereof, and all such consents, permits, licenses, approvals, filings, registrations and declarations remain in full force and effect.

(f) *Litigation.* There is no action, suit, investigation or proceeding pending or, to the best of the Corporation's knowledge after due inquiry, threatened against or affecting the Corporation, in which an adverse determination could have a Material Adverse Effect.

(g) *Disclosure.* The representations and statements made by the Corporation herein or in any Related Document, or made by the Corporation in any other document furnished to the Administrative Agent by the Corporation in connection herewith or therewith are accurate as of the date of this Agreement.

(h) *Liens.* No filings, recordings, registrations or other actions are necessary to create and perfect the Liens provided for in the Resolutions and herein.

(i) *No Immunity.* The Corporation is not entitled to sovereign immunity from any legal proceedings to enforce or collect upon this Agreement or any Related Document to which it is a party or the transactions contemplated hereby or thereby (including, without limitation, immunity from service of process and immunity from jurisdiction of any court or tribunal in respect of itself). To the extent that the Corporation has or hereafter may acquire under any applicable law any right to immunity from set-off or legal proceedings on the grounds of sovereignty, the Corporation hereby irrevocably waives, to the extent permitted by law, such rights to immunity for itself in respect of its obligations arising under or related to this Agreement or the Related Documents to which it is a party.

(j) *No Defaults.* No Default or Event of Default has occurred and is continuing under this Agreement, and no event of default or condition, event or act which with notice or lapse of time or both would become or constitute a default or event of default under, or as such term or terms is defined in, any other Related Document or agreements related thereto, has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement.

(k) *Other Documents.* The representations and warranties made by the Corporation in each of the Related Documents to which it is a party are hereby incorporated herein by this reference and are hereby reaffirmed and restated by the Corporation for the benefit of the Lenders as if such representations and warranties were fully set forth herein. Except as otherwise provided herein, no amendment, modification, termination or replacement of any such representations, warranties, covenants and definitions contained in the Related Documents to which it is a party shall be effective to amend, modify, terminate or replace the representations, warranties, covenants and definitions incorporated herein by this reference, without the prior written consent of the Administrative Agent.

(l) *Regulations U and X* The Corporation is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U or X issued by the Board of Governors of the Federal Reserve System); and no proceeds of the Certificates will be used to extend credit to others for the purpose of purchasing or carrying any margin stock.

(m) *Environmental Matters.* The Corporation has not received notice to the effect that its operations are not in compliance with any of the requirements of applicable federal, state or local environmental, health and safety statutes and regulations or are the subject of any governmental investigation evaluating whether any remedial action is needed to respond to a release of any toxic or hazardous waste or substance into the environment, which non-compliance or remedial action could have a Material Adverse Effect.

(n) *Sanctions Concerns and Anti-Corruption Laws.* The Corporation is in compliance with Anti-Corruption Laws and all applicable Sanctions in all material respects. The Corporation has implemented and maintains in effect policies and procedures designed to ensure compliance with Anti-Corruption Laws and applicable Sanctions. None of the Corporation or, to the knowledge of the Corporation, any director, officer, employee, or affiliate of the Corporation is an individual or entity that is owned or controlled by individuals or entities (including any agency, political subdivision or instrumentality of any government) that are (a) the target of any Sanctions or (b) located, organized or resident in a country or territory that is the subject of Sanctions (currently Crimea, Cuba, Iran, North Korea and Syria).

ARTICLE VI

AFFIRMATIVE COVENANTS

Valley Water (and the Corporation, as applicable) covenants and agrees that it will do the following unless and until the Available Commitment shall have terminated and all Obligations shall have been paid in full, unless the Administrative Agent shall otherwise consent in writing:

SECTION 6.01. *Financial Records.*

(a) maintain financial records and furnish to the Administrative Agent as soon as available, but in any event not later than the April 1 following the end of each fiscal year of Valley Water, audited financial statements of Valley Water prepared in accordance with generally accepted accounting principles for governmental entities consistently applied including (i) a balance sheet as of the end of each fiscal year, (ii) the related statements of operations and changes in equity, (iii) statements of cash flows for such fiscal year, setting forth in each case, in comparative form, the figures for the previous fiscal year, all certified and accompanied by an unqualified opinion of an independent certified public accounting firm to the effect that such audited financial statements have been prepared in accordance with generally accepted accounting principles applied on a consistent basis and fairly present the financial condition of Valley Water as at their date and the results of its operations for the period then ended. In addition, Valley Water shall provide to the Administrative Agent, concurrently with the financial statements described above, a certificate of an authorized representative of Valley Water (substantially in the form of *Exhibit G* hereto) to the effect that such person has reviewed Valley Water's obligations hereunder and under the other Related Documents and (x) demonstrating compliance with Section 6.20 hereof (substantially in the form of *Schedule 2 to Exhibit G* hereto) and stating that (y) no Default or Event of Default hereunder has occurred and is continuing and (z) no default or event of default has occurred under any other Related Document or, if for any reason such statements cannot be made, so stating and describing the relevant circumstances and what action Valley Water has taken or proposes to take with respect thereto;

(b) as soon as available, but in any event within 60 days after the end of each fiscal quarter of Valley Water (other than the last fiscal quarter of each fiscal year), Valley Water shall provide to the Administrative Agent a certificate of an authorized representative of Valley Water (substantially in the form of *Exhibit G* hereto) to the effect that such person has reviewed Valley Water's obligations hereunder and under the other Related Documents and stating that (y) no Default or Event of Default hereunder has occurred and is continuing and (z) no default or event of default has occurred under any other Related Document or, if for any reason such statements cannot be made, so stating and describing the relevant circumstances and what action Valley Water has taken or proposes to take with respect thereto;

(c) as soon as available, but in any event promptly after receipt thereof, after the end of each fiscal quarter of Valley Water, furnish to the Administrative Agent copies of statements from depository institutions, brokerage firms or other securities intermediaries holding Valley Water's material deposit accounts, securities and brokerage accounts, as applicable; and

(d) within 90 days after the end of each of its Fiscal Years, submit to the Administrative Agent, an officer's certificate (1) providing a detailed report of all insurance policies and self-insurance programs maintained (and attaching copies of all insurance certificates relating thereto) by Valley Water with respect to the Water Utility System as of the last day of such Fiscal Year,

including the names of the insurers which have issued the policies, the amounts of coverage with respect thereto, the property or risks covered thereby and for what periods following the date of the such officer's certificates premiums have been paid and (2) verifying that all insurance required to be maintained by Valley Water with respect to the Water Utility System and by this Agreement and the other Related Documents and is in full force and effect as of the date of such officer's certificate;

(e) within 90 days after the end of each Fiscal Year, Valley Water shall provide the Administrative Agent with a copy of its Protection and Augmentation of Water Supplies annual report pertaining to the then current Fiscal Year; and

(f) substantially concurrently with the commencement of each Fiscal Year, Valley Water shall provide the TRAN which has been issued and assigned to the Trustee.

SECTION 6.02. *Notice of Default.* Valley Water and the Corporation shall promptly notify the Administrative Agent in writing of the occurrence of any Default, Event of Default or any default or event of default (however defined) under the Related Documents or any filing by Valley Water of a petition in bankruptcy under any Debtor Relief Law in accordance with the Related Documents. Valley Water shall also notify the Administrative Agent of the occurrence of any non-payment default or other event under any indenture, contract or instrument providing for the creation of any Debt of Valley Water where the effect thereof is to accelerate, or permit the acceleration of, the maturity of such Debt.

SECTION 6.03. *Budgets.* Within thirty (30) days after the adoption thereof but no later than July 1 with respect to each Fiscal Year, a copy of Valley Water's annual operating budget for the each Fiscal Year, such budget to be in reasonable detail and in form reasonably satisfactory to the Administrative Agent. Valley Water shall include in each budget as separate line items, amounts necessary to pay all Obligations. In addition, Valley Water shall provide to the Administrative Agent, concurrently with the annual operating budget described above, a certificate of an authorized representative of Valley Water (substantially in the form of *Exhibit G* hereto) demonstrating compliance with Section 6.20 hereof (substantially in the form of *Schedule 2 to Exhibit G* hereto).

SECTION 6.04. *Reports to Trustees.* (a) Contemporaneously with the delivery to each "Trustee" (as defined in the Parity Master Resolution), Valley Water shall deliver to the Administrative Agent the reports described in Section 4.7 of the Parity Master Resolution and, within ten (10) days after the initial sale or subsequent remarketing of any securities which constitute Debt of Valley Water for which an official statement or other offering memorandum has been prepared for or in connection with any such sale or remarketing transaction regarding such Debt of Valley Water, such official statement or other offering memorandum.

(b) During any period of time Valley Water is subject to continuing disclosure requirements under Rule 15c2-12 promulgated pursuant to the Securities Exchange Act of 1934, as amended (17 C.F.R. Sec. 240-1 5c2-12), or any successor or similar legal requirement, immediately following any dissemination, distribution or provision thereof to any Person, Valley Water shall deliver to the Administrative Agent (1) a copy of any reportable event notice (as

described in b(5)(i)(C) of Rule 15c2-12) disseminated, distributed or provided in satisfaction of or as may be required pursuant to such requirements or (2) notice that such event notice has been filed with EMMA and is publicly available.

SECTION 6.05. *Other Information.* Valley Water and the Corporation shall furnish to the Administrative Agent, as the Administrative Agent may reasonably request, such additional information concerning the Water Utility System, Valley Water or the Corporation, including, without limitation, the Obligations, Maintenance and Operation Costs, Net Water Utility System Revenues or other information about the financial condition, results of operations, properties or business of Valley Water or the Corporation that the Administrative Agent may request, in order to enable the Administrative Agent to determine whether the covenants, terms and provisions of this Agreement, the other Related Documents to which Valley Water and the Corporation are a party and all other Debt of Valley Water have been complied with by Valley Water and the Corporation and for that purpose all pertinent books, documents and vouchers relating to Valley Water's business, affairs and properties shall at all reasonable times during regular business hours and upon reasonable prior notice be open to the inspection of such accountants or other agents (who may make copies of all or any part thereof at their own cost and expense) as shall from time to time be designated by the Administrative Agent. Without limiting the foregoing, upon reasonable prior notice, Valley Water and the Corporation will permit the Administrative Agent to visit and inspect any of the properties of Valley Water and the Corporation during regular business hours and to discuss the affairs, finances and accounts of Valley Water and the Corporation with its respective officials and any accounting firm performing services for Valley Water and the Corporation, as often as the Administrative Agent may reasonably request.

SECTION 6.06. *Compliance with Obligations and Laws.* Valley Water and the Corporation shall observe and comply with all of its respective obligations arising in connection with each of the Resolutions and the other Related Documents, any Debt of Valley Water, all laws applicable to Valley Water (including, without limitation, compliance with all Environmental Laws, ERISA and the rules and regulations thereunder, state securities and blue sky laws in connection with the offering, sale and delivery of the Certificates) if non-compliance therewith could reasonably be expected to materially adversely affect the ability of Valley Water to either receive or collect Net Water Utility System Revenues or could otherwise reasonably be expected to result in a Material Adverse Effect.

SECTION 6.07. *Litigation.* Valley Water and the Corporation shall forthwith notify the Administrative Agent in writing with respect to any pending or threatened litigation arising after the Closing Date and all proceedings before any court or Governmental Authority occurring after the Closing Date which could reasonably be expected to have a Material Adverse Effect (including without limitation, with respect to Valley Water, the Corporation, or the management or operation of the Water Utility System).

SECTION 6.08. *Licenses, Permits, Etc.* Valley Water and the Corporation will take all necessary and appropriate action to ensure the continuance in force of all material consents, licenses, permits, orders, decrees, approvals, authorizations, registrations and filings obtained or made in connection with the Water Utility System, this Agreement, or the other Related Documents or necessary to authorize the execution, delivery and performance by Valley Water

and the Corporation of this Agreement or the other Related Document and all other agreements to be delivered in connection with any thereof.

SECTION 6.09. *Books and Records.* Valley Water and the Corporation shall keep or cause to be kept adequate and proper records and books of account with respect to Valley Water, the Corporation and the Water Utility System in which complete and correct entries shall be made, reflecting all financial transactions of Valley Water and the Corporation in connection with the proceeds of the Certificates and any Term Loan made with respect thereto. All financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the financial statements, except as otherwise specifically prescribed herein. Except as provided in the immediately preceding sentence, in preparing any financial data or statements contemplated or referred to in this Agreement, Valley Water shall not vary or modify the accounting methods or principles from the accounting standards employed in the preparation of its audited financial statements described in Section 6.01 hereof.

SECTION 6.10. *Use of Proceeds.* Valley Water and the Corporation shall use the proceeds of the Certificates for the purposes set forth in the Resolutions and the other Related Documents.

SECTION 6.11. *Maintenance of Existence.* Except as may be required by law, Valley Water shall preserve and maintain its existence as a flood control and water district organized and existing under the laws of the State of California, and its rights, franchises and privileges material to the conduct of its business and shall not reorganize, merge or consolidate with or into any Person, wind up, liquidate or dissolve its affairs (or suffer any liquidation or dissolution) or convert, sell, assign, transfer, lease or otherwise dispose of (or agree to do any of the foregoing at any future time), whether in one transaction or a series of transactions, all or substantially all of its property or assets. Except as may be required by law, the Corporation shall preserve and maintain its existence as a nonprofit public benefit corporation duly organized and existing under the laws of the State of California.

SECTION 6.12. *Notice of Material Adverse Change.* Valley Water and the Corporation shall notify the Administrative Agent as soon as possible after any member of the board or officer of Valley Water or other member or officer thereof acquires knowledge of the occurrence of (i) the filing of any action or the occurrence of any activity which is likely to lead to an initiative or referendum which could lead to the diminution or reallocation of the Net Water Utility System Revenues or any other revenues or funds received by Valley Water likely to have a Material Adverse Effect or (ii) any other event which, in the reasonable judgment of such member or officer, is likely to have a Material Adverse Effect.

SECTION 6.13. *Trustee and Paying Agent.* Valley Water and the Corporation shall immediately notify the Administrative Agent of any resignation of the Trustee or the Paying Agent. Valley Water and the Corporation shall at all times maintain a Trustee and a Paying Agent acceptable to the Administrative Agent pursuant to the terms of the Related Documents.

SECTION 6.14. *Other Matters.* Valley Water and the Corporation shall execute and deliver to the Administrative Agent all such documents and instruments, and do all such acts and things, as may be necessary or reasonably required by the Administrative Agent to enable the Administrative Agent to exercise and enforce its rights and the rights of the other Lenders under this Agreement and the other Related Documents and to realize thereon, and record and file and re-record and re-file all such documents and instruments, at such time or times, in such manner and at such place or places, all as may be necessary or reasonably required by the Administrative Agent to validate, preserve and protect the Lien of the Lenders under this Agreement and the other Related Documents.

SECTION 6.15. *Maintenance of Insurance.* Valley Water and the Corporation shall maintain insurance with responsible and reputable insurance companies, or may self-insure, in such amounts, with such deductibles, and covering such risks and contingencies as is customarily maintained by similarly situated organizations and as otherwise required pursuant to the terms of the Related Documents.

SECTION 6.16. *Investments.* Promptly upon any change therein, Valley Water shall deliver to the Administrative Agent a copy of Valley Water's current Investment Policy or the current investment policy of any other entity which maintains an investment pool in which Valley Water has invested any of its funds, as the case may be.

SECTION 6.17. *Section 6.17. Alternate Financing.*

(a) Valley Water and the Corporation agree to use commercially reasonable efforts to obtain an alternate financing to replace this Agreement or otherwise refinance, repay or defease the then outstanding Certificates and/or Term Loans, as applicable, in the event (i) the Administrative Agent decides not to extend the Commitment Expiration Date or if Valley Water fails to timely request an extension of the Commitment Expiration Date (such replacement, refinancing or defeasance to occur on or before the Commitment Expiration Date), (ii) the Available Commitment is terminated, (iii) Valley Water terminates this Agreement in accordance with the terms hereof or (iv) an Event of Default under Section 8.01(m) shall occur and be continuing.

(b) Valley Water and the Corporation agree that any alternate financing will require, as a condition to the effectiveness of the alternate financing, that the provider of the alternate financing provide funds to the extent necessary, on the date the alternate financing becomes effective, for payment of all Obligations at par plus interest (at the applicable rate pursuant to the terms hereof, including the Term Loan Rate or Default Rate, as applicable) through the date repaid. On the effective date of such refinancing, redemption or defeasance, as the case may be, Valley Water shall pay in full all other amounts due under this Agreement and the Lender Note (including, without limitation, all Excess Interest and unpaid interest thereon).

SECTION 6.18. *Incorporation by Reference.* Valley Water and the Corporation each agree that it will, for the benefit of the Lenders, perform, comply with, abide by and be restricted by all of the respective agreements, covenants, obligations and undertakings of Valley Water and the Corporation contained in the Related Documents, which, together with the related definitions

and ancillary provisions, are incorporated herein by reference and made a part hereof to the same extent with the same force and effect as if the same had been herein set forth in their entirety, and such agreements, covenants, obligations and undertakings will be deemed to continue in effect for the benefit of the Lenders, without regard or giving effect to any amendment or modification of such provisions or any waiver of compliance therewith, no such amendment, modification or waiver to in any manner constitute an amendment, modification or waiver of the provisions thereof as incorporated herein except to the extent agreed to by the Administrative Agent in writing. In addition, Valley Water and the Corporation shall take all such action as may be reasonably requested by the Administrative Agent to strictly enforce the obligations under the Related Documents of each of the other parties thereto.

SECTION 6.19. *Security Interests.* Valley Water and the Corporation shall at all times keep the Net Water Utility System Revenues and every part thereof free and clear of all pledges and security interests except the Series AB Bank Pledge and pledges granted in or permitted by the Resolutions and this Agreement and shall maintain the pledge of the Net Water Utility System Revenues to the Lenders as a pledge of all right, title and interest of Valley Water in the Net Water Utility System Revenues and all rights of Valley Water to receive any amount of the Net Water Utility System Revenues, as and to the extent contemplated by Section 2.13 hereof. Valley Water and the Corporation covenant and agree that at no time shall any Certificates be issued with a maturity date later than the maturity date of the related TRANs relating to such Certificates. So long as any Certificates are outstanding, Valley Water shall cause TRANs relating to such Certificates to be issued and outstanding.

SECTION 6.20. *Financial Covenants.*

(a) Valley Water shall maintain all financial covenants contained in Valley Water's other Debt instruments, including but not limited to those contained in Section 4.9 of the Parity Master Resolution (at all times, regardless of whether any Parity Obligations are outstanding or such Parity Master Resolution has been superseded, repealed, terminated or otherwise may be ineffective) and Section 4.9 of the Senior Master Resolution (in the case of Section 4.9 of the Senior Master Resolution for so long as any Senior Lien Obligations remain outstanding).

(b) Valley Water may at any time incur or issue Subordinate Obligations payable on a parity with the Obligations in accordance with the terms hereof; *provided:*

(1) No Default or Event of Default hereunder or any other event of default with respect to any Senior Lien Obligations, Parity Obligations or other Subordinate Obligations (or any event which, once all notice or grace periods have passed, would constitute an event of default thereunder) shall have occurred and be continuing, unless such event of default shall be cured to the reasonable satisfaction of the Administrative Agent upon such incurrence or issuance; and

(2) Valley Water shall have caused an Independent Certified Public Accountant or Experienced Banker or Advisor to deliver to the Administrative Agent written evidence demonstrating that the Subordinate Lien Debt Service Coverage Ratio for the most recent audited Fiscal Year preceding the date of adoption by the Board of Directors of Valley Water of the resolution authorizing the issuance or incurring of such Subordinate Obligations, as the case may

be, including adjustments to give effect as of the first day of such Fiscal Year to increases or decreases in rates and charges for the Water Service approved and in effect as of the date of calculation, as evidenced by a written calculation prepared by Valley Water in form and substance reasonably satisfactory to the Administrative Agent, shall be at least 1.10, taking into account the Subordinate Debt Service which would have been payable on the Subordinate Obligations proposed to be issued and any Subordinate Obligations issued or incurred since the end of such Fiscal Year assuming all such Subordinate Obligations had been incurred or issued at the beginning of such Fiscal Year and the Subordinate Debt Service which would have been payable had such Subordinate Obligations been incurred or issued at the beginning of such Fiscal Year.

(c) As soon as available, Valley Water shall deliver to the Administrative Agent the calculations and certificates described in Section 3.1 of the Parity Master Resolution that are prepared in connection with the execution or issuance of any Parity Obligations.

(d) To the fullest extent permitted by law, Valley Water will fix and prescribe rates, fees and charges for Water Service at the commencement of each Fiscal Year, which are reasonably expected to yield a Budgeted Subordinate Lien Debt Service Coverage Ratio that is at least 1.10.

SECTION 6.21. *Ratings.* Valley Water covenants and agrees that there shall be maintained at least two unenhanced long-term ratings from any of Fitch, Moody's or S&P on Parity Obligations. Valley Water covenants and agrees that they shall not at any time withdraw any long-term unenhanced rating on its Parity Obligations from any of Fitch, Moody's or S&P if the effect of such withdrawal would be to cure a Default or an Event of Default under this Agreement.

SECTION 6.22. *Other Agreements .* In the event that Valley Water shall, directly or indirectly, enter into or otherwise consent to any Bank Agreement which such Bank Agreement provides such Person with different or more restrictive covenants, different or additional events of default and/or greater rights and remedies than are provided to the Lenders in this Agreement, Valley Water shall provide the Administrative Agent with a copy of each such Bank Agreement and such different or more restrictive covenants, different or additional events of default and/or greater rights and remedies shall automatically be deemed to be incorporated into this Agreement and the Lenders shall have the benefits of such different or more restrictive covenants, different or additional events of default and/or greater rights and remedies as if specifically set forth herein. Valley Water shall promptly enter into an amendment to this Agreement to include different or more restrictive covenants, different or additional events of default and/or greater rights and remedies; *provided* that the Lenders shall have and maintain the benefit of such different or more restrictive covenants, different or additional events of default and/or greater rights and remedies even if Valley Water fails to provide such amendment.

SECTION 6.23. *Anti-Money Laundering Compliance .* Valley Water will provide such information and take such actions as are reasonably requested by the Administrative Agent or any Lender in order to assist the Administrative Agent and the Lenders in maintaining compliance with anti-money laundering Laws.

ARTICLE VII

NEGATIVE COVENANTS

Unless and until the Available Commitment shall have terminated and all Obligations shall have been paid in full, Valley Water (and the Corporation as applicable) shall not directly or indirectly do any of the following, unless the Administrative Agent shall have otherwise consented in writing:

SECTION 7.01. *Amendments.* Neither Valley Water nor the Corporation shall consent to or amend, supplement, extend, modify, waive, revise or otherwise alter or terminate, or permit any party to amend, supplement, extend, modify, waive, revise or otherwise alter or terminate any Related Document.

SECTION 7.02. *Arbitrage; Margin Stock.* Neither Valley Water nor the Corporation shall (i) invest the proceeds of the Series C Certificates in any way that would violate the Code or cause the Series C Certificates to be “arbitrage bonds,” (ii) knowingly take any action or omit to take any action if such action or omission would adversely affect the exclusion of interest evidenced by the Series C Certificates from gross income of the holders thereof for Federal income tax purposes or (iii) use, or permit the use of, the proceeds of any credit extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose, in each case in violation of, or for a purpose which violates, or would be inconsistent with, Regulation T, U or X of the Board of Governors of the Federal Reserve System.

SECTION 7.03. *Trustee; Paying Agent.* Without the prior written consent of the Administrative Agent, the Corporation shall not remove, appoint or permit the appointment of a successor Trustee or Paying Agent. The Administrative Agent shall respond to a written request for consent described in the foregoing sentence within thirty (30) days of its receipt of the same. The Corporation shall not take any action, or cause the Trustee or the Paying Agent to take any action under the Related Documents inconsistent with the rights of the Lenders under this Agreement.

SECTION 7.04. *Compliance with Laws.* Neither Valley Water nor the Corporation shall violate any law, rule, regulation, or governmental order to which it is subject, which violation could reasonably be expected to result in a Material Adverse Effect.

SECTION 7.05. *Bank Information.* Neither Valley Water nor the Corporation shall include any information concerning the Lenders in any offering document unless the applicable Lender shall have approved in writing of the description of such Lender contained in such document, unless, after notice to such Lender, in the reasonable opinion of Valley Water, such description is required to comply with Valley Water’s obligations under federal securities law.

SECTION 7.06. *Immunity from Jurisdiction.* To the fullest extent permitted by law, neither Valley Water nor the Corporation will assert any immunity it may have as a public entity under the laws of the State of California from lawsuits with respect to this Agreement or any other Related Document. Any such suits shall be subject to all substantive and procedural requirements of California law.

SECTION 7.07. *Subordinate Obligations.* Neither Valley Water nor the Corporation shall take any action which would result in the Obligations not being Subordinate Obligations ranking equal in right of payment with all other Subordinate Obligations of Valley Water. Neither Valley Water nor the Corporation shall take any action which would result in any Debt other than the Parity Obligations and the Senior Lien Obligations being secured by or payable from Net Water Utility System Revenues on a basis senior to the Obligations.

SECTION 7.08. *Investment Policy.* Valley Water shall not deviate from the Investment Policy of Valley Water or from the provisions of the laws of the State of California regarding Valley Water, as in effect from time to time.

SECTION 7.09. *Liens.* Neither Valley Water nor the Corporation shall, directly or indirectly, encumber, incur, create, suffer or assume or permit to exist any Lien on any TRANs or Net Water Utility System Revenues which could reasonably be expected to materially adversely affect the interests, rights, remedies or security of the Lenders under this Agreement and/or the Lender Note.

SECTION 7.10. *Application of Certificate Proceeds.* Neither Valley Water nor the Corporation shall take or omit to take any action, which action or omission will in any way result in the proceeds from the sale of the Certificates being applied in a manner other than as provided in this Agreement and the Resolutions.

SECTION 7.11. *Swap Termination Payments.* Without the prior written consent of the Administrative Agent, in no event shall (i) any Lien on the Net Water Utility System Revenues securing any swap termination payments be senior in priority to the Lien granted in support of the Certificates and the Obligations hereunder or (ii) Valley Water post cash collateral pursuant to the terms of any Swap Contract.

SECTION 7.12. *Defeasance.* Notwithstanding any in the Related Documents to the contrary, in no event shall the District provide for the defeasance of the Certificates.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

SECTION 8.01. *Events of Default and Remedies.* If any of the following events shall occur, each such event shall be an “*Event of Default*”:

(a) Valley Water shall fail to pay (i) any principal of or interest on, or with respect to, the Certificates (except principal with respect to a Certificate that is paid or deemed paid with the

proceeds of a Term Loan) or Term Loans as and when due hereunder or (ii) any other Obligations (other than Obligations described in the foregoing clause (i) hereof) within three (3) calendar days of when due;

(b) any representation or warranty made by Valley Water or the Corporation under or in connection with this Agreement or any of the Related Documents shall prove to be untrue in any material respect on the date as of which it was made; or the documents, certificates or statements of Valley Water and the Corporation (including unaudited financial reports, budgets, projections and cash flows of Valley Water) furnished to the Administrative Agent by or on behalf of Valley Water and the Corporation in connection with the transactions contemplated hereby, when taken as a whole, are materially inaccurate in light of the circumstances under which they were made and as of the date on which they were made;

(c) default by Valley Water or the Corporation in the due observance or performance of any covenant set forth in Sections 6.11, 6.15, 6.17, 6.19, 6.20, 6.21, 6.23 or Article VII hereof;

(d) default by Valley Water or the Corporation of any other term or provision of this Agreement (other than those specifically referred to in this Section 8.01) which is not cured within thirty (30) days after the occurrence thereof;

(e) (i) an “event of default” shall have occurred and be continuing under any of the Related Documents or (ii) any “event of default” shall occur under any other agreement between Valley Water and the Administrative Agent;

(f) Valley Water or the Corporation shall (i) have entered involuntarily against it an order for relief under the United States Bankruptcy Code, as amended, (ii) not pay, or admit in writing its inability to pay, its debts generally as they become due, (iii) make an assignment for the benefit of creditors, (iv) apply for, seek, consent to, or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its Property, (v) institute any proceeding seeking to have entered against it an order for relief under the United States Bankruptcy Code, as amended, to adjudicate it insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, marshalling of assets, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or fail to file an answer or other pleading denying the material allegations of any such proceeding filed against it, (vi) take any corporate action in furtherance of any matter described in parts (i) through (v) above, or (vii) fail to contest in good faith any appointment or proceeding described in Section 8.01(g) hereof;

(g) a custodian, receiver, trustee, examiner, liquidator or similar official shall be appointed for Valley Water or the Corporation or any substantial part of any of their respective Property, or a proceeding described in Section 8.01(f)(v) shall be instituted against Valley Water or the Corporation and such appointment continues undischarged or any such proceeding continues undismissed or unstayed for a period of 30 or more days;

(h) (i) any provision of this Agreement or any Related Document related to (A) payment of principal of or interest on or with respect to the Certificates, the Term Loans, any other

Subordinate Obligations, any Parity Obligations or any Senior Lien Obligations or (B) the validity or enforceability of the pledge of, lien on or security interest in the TRANs or Net Water Utility System Revenues shall at any time for any reason cease to be valid and binding on Valley Water or the Corporation, as applicable, as a result of any legislative or administrative action by a Governmental Authority with competent jurisdiction, or shall be declared, in a final nonappealable judgment by any court of competent jurisdiction, to be null and void, invalid or unenforceable;

(ii) the validity or enforceability of any material provision of this Agreement or any Related Document related to (A) payment of principal of or interest on or with respect to the Certificates, the Term Loans, any other Subordinate Obligations, any Parity Obligations or any Senior Lien Obligations, or (B) the validity or enforceability of the pledge of, lien on or security interest in the TRANs or Net Water Utility System Revenues shall be publicly contested by Valley Water or the Corporation, as applicable; or

(iii) any other material provision of this Agreement or any other Related Document, other than a provision described in clause (i) above, shall cease to be valid and binding, or Valley Water or Corporation, as applicable, shall contest or repudiate any such provision, or Valley Water or Corporation, as applicable, or any agent or trustee on its behalf shall deny that it has any or further liability under this Agreement or any of the Related Documents to which it is a party;

(i) Valley Water shall impose, or any Governmental Authority having appropriate jurisdiction over Valley Water or the Corporation shall make a finding or ruling or shall enact or adopt legislation or issue an executive order or enter a judgment or a decree which results in, a debt moratorium, debt restructuring, debt adjustment or comparable extraordinary restriction on the repayment when due and payable of the principal of or interest on, or with respect to, any of the Certificates or Term Loans or any Senior Lien Obligations, Parity Obligations or Subordinate Obligations of Valley Water;

(j) Any of the funds or accounts established pursuant to the Resolutions or any moneys or amounts on deposit, or otherwise to the credit of, such funds or accounts shall become subject to any stay, writ, judgment, warrant of attachment, execution or similar process by any of the creditors of Valley Water or the Corporation and such stay, writ, judgment, warrant of attachment, execution or similar process shall not be released, vacated or stayed within fifteen (15) days after its issue or levy;

(k) (i) a default shall occur under any evidence of any Subordinate Obligations (other than the Obligations), any Parity Obligations or any Senior Lien Obligations issued, assumed, or guaranteed by Valley Water or the Corporation or under any indenture, agreement or other instrument under which the same may be issued and such default shall continue for a period of time sufficient to cause (determined without regard to whether any notice is required) any such Subordinate Obligations (other than the Obligations), Parity Obligations or Senior Lien Obligations to become due prior to its scheduled payment date or stated maturity, whether by acceleration, mandatory tender, mandatory redemption or otherwise; or any such Subordinate Obligations (other than the Obligations), Parity Obligations or Senior Lien Obligations shall not be paid when and as due (whether by lapse of time, acceleration, mandatory tender, mandatory redemption or otherwise);

(ii) a default shall occur under any evidence of Debt secured by or payable from Net Water Utility System Revenues issued, assumed, or guaranteed by Valley Water or the Corporation or under any indenture, agreement or other instrument under which the same may be issued and such default shall continue for a period of time sufficient to permit the holder or credit enhancer of any such Debt to cause such Debt to become due prior to its scheduled payment date or stated maturity, whether by acceleration, mandatory tender, mandatory redemption or otherwise (whether or not such holder or credit enhancer causes such Debt to become so due); or any such Debt shall not be paid when and as due (whether by lapse of time, acceleration, mandatory tender, mandatory redemption or otherwise);

(l) a final, non-appealable judgment or order for the payment of money in excess of \$25,000,000 shall have been rendered against Valley Water and such judgment or order shall not have been satisfied, stayed or bonded within a period of sixty (60) days from the date on which it was first so rendered;

(m) (i) S&P (if S&P then provides a Valley Water Rating) shall downgrade its Valley Water Rating to below “BBB-” or suspend or withdraw for credit-related reasons its Valley Water Rating, (ii) any of Moody’s, S&P or Fitch (in each case if such rating agency then provides a Valley Water Rating) shall downgrade its respective Valley Water Rating to below “A3” (or its equivalent) by Moody’s, “A-” (or its equivalent) by S&P or “A-” (or its equivalent) by Fitch or (iii) any of Moody’s, S&P or Fitch (in each case if such rating agency then provides a Valley Water Rating) shall suspend or withdraw for credit-related reasons its respective Valley Water Rating;

(n) any pledge or security interest created by the Resolutions or this Agreement to secure any amount due under the TRANs or the Obligations shall fail to be fully enforceable or fail to have the priority required under the Resolutions or this Agreement, in either case, by reason of a final, non-appealable judgment of a court of competent jurisdiction;

(o) any provision of the TRANs Act or District Act is repealed, reenacted, amended or otherwise modified (including, without limitation, by legislative or judicial action) or any other legislation is enacted, repealed, reenacted, amended or otherwise modified, and in the event of a repeal, reenactment, amendment, modification or enactment, such repeal, reenactment, amendment, modification or enactment, in the sole judgment of the Administrative Agent, could reasonably be expected to result in a Material Adverse Effect; or

(p) Valley Water’s or the Corporation’s existence shall terminate or dissolve.

SECTION 8.02. *Remedies.* Upon the occurrence of an Event of Default hereunder, the Administrative Agent may, and at the request of the Required Lenders shall, take one or more of the following actions at any time and from time to time (regardless of whether the actions are taken at the same or different times):

(a) (i) by written notice to Valley Water and the Corporation, declare the Available Commitment to be terminated and thereafter the Lenders will have no further obligation to purchase Certificates or make Term Loans hereunder;

(ii) deliver a written notice to the Paying Agent, Valley Water and the Corporation that an Event of Default has occurred and is continuing and direct the Trustee and Valley Water, as applicable, to cause the outstanding Certificates to be subject to mandatory prepayment as provided in Section 2.05(b) hereof¹³;

(iii) declare the outstanding amount of the Obligations to be immediately due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived, and an action therefor shall immediately accrue;

(iv) either personally or by attorney or agent without bringing any action or proceeding, or by a receiver to be appointed by a court in any appropriate action or proceeding, take whatever action at law or in equity may appear necessary or desirable to collect the amounts due and payable under the Related Documents or to enforce performance or observance of any obligation, agreement or covenant of Valley Water or the Corporation under the Related Documents, whether for specific performance of any agreement or covenant of Valley Water or the Corporation or in aid of the execution of any power granted to any Lender in the Related Documents;

(v) cure any Default, Event of Default or event of nonperformance hereunder or under any Related Document; *provided, however*, that the Administrative Agent shall have no obligation to effect such a cure; and

(vi) exercise, or cause to be exercised, any and all remedies as it may have under the Related Documents and as otherwise available at law and at equity.

(b) Notwithstanding the provisions of Section 8.02(a)(ii), (x) the Administrative Agent shall not cause an acceleration of of the Obligations as described in Section 8.02(a)(ii) until seven (7) days after the occurrence of an Event of Default specified in Section 8.01(a)(i), 8.01(f), 8.01(g), 8.01(h)(i), 8.01(h)(ii), 8.01(i), 8.01(j), 8.01(k)(i), 8.01(l), 8.01(m)(i), 8.01(n), 8.01(o) or 8.01(p) and (y) the Administrative Agent shall notify Valley Water of an acceleration of of the Obligations as described in Section 8.02(a)(ii) at least one hundred eighty (180) days prior thereto in the case of any Event of Default not specified in the immediately preceding clause (x). Notwithstanding the foregoing sentence of this Section 8.02(b), if any other holder or credit enhancer of Debt of the Corporation or Valley Water or any counterparty under any Swap Contract with the Corporation or Valley Water related thereto (i) has the right to cause such Debt to be immediately due and payable (whether by repurchase, mandatory tender, mandatory redemption, acceleration or otherwise) on a date earlier than, or pursuant to a notice period which is shorter than what is set forth in the first sentence of this section 8.02(b) in connection with a default related to such Debt, then the Lenders shall automatically have such right or shorter notice period, as applicable, or (ii) causes any such Debt or other obligations of Valley Water or the Corporation to become immediately due and payable (whether by repurchase, mandatory tender, mandatory redemption, acceleration or otherwise), then the Administrative Agent may immediately, without notice, avail itself of the remedies set forth in Section 8.02(a)(ii) hereof and/or declare or cause to be declared

¹³ Corporation Resolutions to conform for this concept.

the unpaid principal amount of the Obligations, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder to be immediately due and payable.

Notwithstanding anything to the contrary contained in this Section 8.02, upon the occurrence or existence of an Event of Default of the type described in Section 8.01(f) or 8.01(g), the remedies described in clauses (i), (ii) and (iii) of Section 8.02(a) above shall occur immediately and automatically on the first date on which such remedies may occur pursuant to the terms of Section 8.02(b) above without prior notice or further action on the part of the Administrative Agent, the Lenders or any other person.

SECTION 8.03. *Application of Funds.* After the exercise of remedies provided for in Section 8.02 (or after the Obligations under this Agreement and the other Related Documents have automatically become immediately due and payable as set forth in Section 8.02(a)(iii)), the Administrative Agent shall apply any amounts it receives on account of the Obligations in the following order:

(a) first, to payment of fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

(b) second, to payment of fees, indemnities and other reimbursable expenses (other than principal, Reimbursement Obligations, interest and commitment fees) payable to the Lenders and any other Holders (including fees, charges and disbursements of counsel to the Administrative Agent as required by Section 10.16 and amounts payable under Article III);

(c) third, to payment of accrued and unpaid commitment fees and interest on the Certificates, Term Loans and Reimbursement Obligations, ratably among the Lenders and any other Holders in proportion to the amounts described in this Section 8.03(c) payable to them;

(d) fourth, to payment of that portion of the Obligations constituting unpaid principal of the Reimbursement Obligations, ratably among the Lenders and any other Holders;

(e) fifth, to payment of all other Obligations ratably among the Administrative Agent, any other Holders and the Lenders, based upon the respective aggregate amounts of all such Obligations owing to them in accordance with the respective amounts thereof then due and payable; and

(f) last, the balance, if any, to Valley Water or as otherwise required by law.

ARTICLE IX

THE ADMINISTRATIVE AGENT

SECTION 9.01. *Appointment and Authority.* Each of the Lenders hereby irrevocably appoints U.S. Bank National Association to act on its behalf as the Administrative Agent hereunder and under the other Related Documents and authorizes the Administrative Agent to take such

actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. Except as otherwise provided in Section 10.06(c) hereof, the provisions of this Article IX are solely for the benefit of the Administrative Agent and the Lenders, and neither Valley Water nor the Corporation shall have rights as a third-party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Related Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead such term is used as a matter of market custom and is intended to create or reflect only an administrative relationship between contracting parties.

SECTION 9.02. *Rights as a Lender.* The Person serving as the Administrative Agent hereunder has the same rights and powers in its capacity as a Lender as any other Lender and may exercise them as though it were not the Administrative Agent, and the term “Lender” or “Lenders,” unless otherwise expressly indicated or unless the context otherwise requires, includes the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for, and generally engage in any kind of business with, Valley Water or the Corporation as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

SECTION 9.03. *Exculpatory Provisions.*

(a) The Administrative Agent has no duties or obligations except those expressly set forth herein and in the other Related Documents, and its duties hereunder are administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent:

(i) is not subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;

(ii) has no duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Related Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as is expressly provided for herein or in the other Related Documents); *provided* that the Administrative Agent is not required to take any action that, in the opinion of the Administrative Agent or its counsel, could expose the Administrative Agent to liability or is contrary to any Related Document or applicable Law, including for the avoidance of doubt any action that could be in violation of the automatic stay under any Debtor Relief Law or that could effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

(iii) does not, except as expressly set forth herein and in the other Related Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to Valley Water that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

(b) The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as is necessary, or as the Administrative Agent believes in good faith is necessary, under the circumstances as provided herein or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default or Event of Default unless and until notice describing such Default or Event of Default is given to the Administrative Agent in writing by Valley Water or a Lender.

(c) The Administrative Agent is not responsible for and has no duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Related Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Related Document or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

SECTION 9.04. *Reliance by Administrative Agent.* The Administrative Agent may rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the purchase of a Certificate or the making of a Term Loan that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent has received notice to the contrary from such Lender prior to the purchase of such Certificate or the making of such Term Loan. The Administrative Agent may consult with legal counsel (who may be counsel for Valley Water), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

SECTION 9.05. *Delegation of Duties.* The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Related Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of their duties and exercise their rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article IX apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent and apply to their respective activities in connection with the syndication of the facilities hereunder as well as activities as Administrative Agent. The Administrative Agent is not responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable

judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

SECTION 9.06. *Resignation of Administrative Agent.*

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders and Valley Water. Upon receipt of any such notice of resignation, the Required Lenders may, in consultation with Valley Water, appoint a successor (which successor shall [be approved / qualify] under [describe applicable Board policy]). If no such successor has been so appointed by the Required Lenders and has accepted such appointment 30 days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as is agreed by the Required Lenders) (the “*Resignation Effective Date*”), then the retiring Administrative Agent may (but is not obligated to), on behalf of the Lenders, appoint a successor Administrative Agent (which successor shall **[be approved / qualify under][describe applicable Board policy]**); *provided* that in no event may any such successor Administrative Agent be a Defaulting Lender. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable Law, by notice in writing to Valley Water and such Person remove such Person as Administrative Agent and, in consultation with Valley Water, appoint a successor. If no such successor has been so appointed by the Required Lenders and has accepted such appointment 30 days after the Administrative Agent receives notice of its removal (or such earlier day as is agreed by the Required Lenders) (the “*Removal Effective Date*”), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (i) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Related Documents and (ii) except for any indemnity payments owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor’s appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring or removed Administrative Agent (other than any rights to indemnity payments owed to the retiring or removed Administrative Agent), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Related Documents. The fees payable by Valley Water to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between Valley Water and such successor. After the retiring or removed Administrative Agent’s resignation or removal hereunder and under the other Related Documents, the provisions of this Article IX and Section 10.04(b) shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring or removed Administrative Agent was acting as Administrative Agent.

SECTION 9.07. *Non-Reliance on Agents and Other Lenders.* Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it from time to time deems appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Related Document or any related agreement or any document furnished hereunder or thereunder.

SECTION 9.08. *No Other Duties.* Anything herein to the contrary notwithstanding, none of the Arrangers listed on the cover page hereof has any powers, duties or responsibilities under this Agreement or any of the other Related Documents, except in its capacity, as applicable, as the Administrative Agent or a Lender.

SECTION 9.09. *Administrative Agent May File Proofs of Claim.* In case of the pendency of any proceeding under any Debtor Relief Law, the Administrative Agent (irrespective of whether the principal of any Certificate or Term Loan is then due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent has made any demand on Valley Water) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Certificates, Term Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Section 10.04(b) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, if the Administrative Agent consents to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent hereunder.

SECTION 9.10. *Execution of and Direction Under Certain Related Documents.* The Lenders hereby empower and authorize the Administrative Agent to execute and deliver to Valley Water on their behalf the Related Documents and all other agreements, documents or instruments as are necessary or appropriate to effect the purposes of the Related Documents. Pursuant to Section 6(b) of the Issuing and Paying Agent Agreement, the Lenders, as registered owners of Series CD Certificates under the Issuing and Paying Agent Agreement, hereby direct the Paying

Agent to transfer amounts due to them pursuant to such Section to the Administrative Agent for application in accordance with this Agreement.¹⁴

SECTION 9.11. *Certain ERISA Matters.*

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of Valley Water, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender’s entrance into, participation in, administration of and performance of the Certificates, the Term Loans, the Available Commitment or this Agreement;

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender’s entrance into, participation in, administration of and performance of the Certificates, the Term Loans, the Available Commitment and this Agreement;

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Certificates, the Term Loans, the Available Commitment and this Agreement, (C) the entrance into, participation in, administration of and performance of the Certificates, the Term Loans, the Available Commitment and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Certificates, the Term Loans, the Available Commitment and this Agreement; or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (i) clause (i) of Section 9.11(a) is true with respect to a Lender or (ii) a Lender has provided another representation, warranty and covenant in accordance with clause (iv) of Section 9.11(a), such Lender further (x) represents and warrants, as of the date

¹⁴ Consider whether separate written direction to Paying Agent is required.

such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of Valley Water, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Certificates, the Term Loans, the Available Commitment and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Related Document or any documents related hereto or thereto).

ARTICLE X

MISCELLANEOUS

SECTION 10.01. *Amendments, Etc.* (a) No amendment, modification or waiver of any provision or term of this Agreement, and no consent to any departure by Valley Water or the Corporation or any other party therefrom, shall be effective unless in writing signed by the Required Lenders, the Corporation and Valley Water and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; *provided, however,* that no amendment to or waiver of any term or provision of any Related Document incorporated herein by reference shall have the effect of amending or otherwise modifying any corresponding term or provision incorporated into this Agreement unless the Required Lenders have consented to such amendment or waiver, as applicable, in writing; *provided further* that no such amendment, waiver or consent may:

(i) extend or increase any Available Commitment of any Lender without the written consent of such Lender (it being understood that a waiver of any condition precedent set forth in Article IV or the waiver of any Default or Event of Default is not an extension or increase of any Available Commitment of any Lender);

(ii) reduce the principal of, or rate of interest specified herein on, any Reimbursement Obligation, or any fees or other amounts payable hereunder or under any other Related Document, without the written consent of each Lender directly and adversely affected thereby (provided that only the consent of the Required Lenders is necessary to amend Section 2.07(a) or to waive the obligation of Valley Water to pay interest at the rate imposed pursuant thereto);

(iii) postpone any date scheduled for any payment of principal of, or interest on, any Reimbursement Obligation (excluding mandatory prepayments pursuant to Section 2.05(b)), or any fees or other amounts payable hereunder or under any other Related

Document, or reduce the amount of, waive or excuse any such payment, without the written consent of each Lender directly and adversely affected thereby;

(iv) change the definition of “Applicable Percentage” or Section 2.17 or 8.03 in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender directly and adversely affected thereby; or

(v) change any provision of this Section 10.01(a) or the definition of “Required Lenders” or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender.

provided, further, that no such amendment, waiver or consent may amend, modify or otherwise affect the rights or duties hereunder or under any other Related Document of the Administrative Agent, unless in writing executed by the Administrative Agent, in addition to Valley Water and the Lenders required above.

(b) Notwithstanding anything herein to the contrary, no Defaulting Lender has any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent that by its terms requires the consent of all the Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders, except that (x) an Available Commitment of any Defaulting Lender may not be increased or extended, the maturity of any of its Loans may not be extended, the rate of interest on any of its Loans may not be reduced and the principal amount of any of its Loans may not be forgiven, in each case without the consent of such Defaulting Lender and (y) any amendment, waiver or consent requiring the consent of all the Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely than the other affected Lenders requires the consent of such Defaulting Lender.

(c) In addition, notwithstanding anything in this Section 10.01 to the contrary, if the Administrative Agent, the Corporation and Valley Water jointly identify an obvious error or any error or omission of a technical nature, in each case, in any provision of the Related Documents, then the Administrative Agent, the Corporation and Valley Water may amend such provision, and, in each case, such amendment shall become effective without any further action or consent of any other party to any Related Document if the such amendment is not objected to in writing by the Required Lenders to the Administrative Agent within ten (10) Business Days following receipt of notice thereof.

SECTION 10.02. *Notices; Effectiveness; Electronic Communication.*

(a) *Notices Generally.* Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule I, and all notices and other communications expressly permitted hereunder to

be given by telephone shall be made to the applicable telephone number, for such Person on Schedule I. Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) *Electronic Communications.* Notices and other communications to the Administrative Agent hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent or as otherwise determined by the Administrative Agent, *provided* that the foregoing shall not apply to notices to the any Lender pursuant to Article II if such Lender has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent, Valley Water or the Corporation may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, *provided* that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), *provided* that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) *Change of Address, Etc.* Valley Water, the Corporation or any Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the other parties hereto.

(d) *Reliance by Administrative Agent.* The Administrative Agent shall be entitled to rely and act upon any notices (including telephonic notices) purportedly given by or on behalf of Valley Water or the Corporation even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. Valley Water shall indemnify the Administrative Agent, the Lenders and the Related Parties of the Administrative Agent and the Lenders from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of Valley Water or the Corporation. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and Valley Water and the Corporation hereby consent to such recording.

SECTION 10.03. *No Waiver; Cumulative Remedies; Enforcement; Conflict.* No failure by the Administrative Agent or any Lender to exercise, and no delay by the Administrative Agent or any Lender in exercising, any right, remedy, power or privilege hereunder or under any other Related Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided and provided under each other Related Document are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

To the extent of any conflict between this Agreement, the Resolutions and any other Related Documents, this Agreement shall control solely as between Valley Water, the Corporation, Administrative Agent and the other Lenders.

SECTION 10.04. *Liability of the Bank; Indemnification.*

(a) *Liability of Bank.* Valley Water assumes all risks of the acts or omissions of each of the Trustee, the Paying Agent and the Corporation and their agents in respect of their use of this Agreement or any amounts made available by the Lenders hereunder. No Indemnitee (as hereinafter defined) shall be liable or responsible for: (i) the use which may be made of this Agreement or any amounts made available by the Lenders hereunder or for any acts or omissions of the Trustee, the Paying Agent or the Corporation or their agents in connection therewith; (ii) the validity, sufficiency or genuineness of documents, or of any endorsement(s) thereon, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged; (iii) the lack of validity or enforceability of this Agreement, the Certificates, the Related Documents or any other agreement or instrument relating thereto (other than the validity or enforceability as against an Indemnitee of any agreement to which such Indemnitee is a party); or (iv) any other circumstances whatsoever in making or failing to make payment hereunder, except only that Valley Water shall have a claim against the Indemnitee, and such Indemnitee shall be liable to Valley Water to the extent, but only to the extent, of any direct, as opposed to consequential, damages suffered by Valley Water which Valley Water proves were solely and directly caused by such Indemnitee's gross negligence or willful failure to make payment hereunder in accordance with the terms hereof. In furtherance and not in limitation of the foregoing, an Indemnitee may accept documents that such Indemnitee in good faith determines appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary. Valley Water assumes all risks associated with the acceptance by the Indemnitee of documents received by telecommunication, it being agreed that the use of telecommunication devices is for the benefit of Valley Water and that such Indemnitee assumes no liabilities or risks with respect thereto.

(b) *Indemnification.* In addition to any and all rights of reimbursement, indemnification, subrogation or any other rights pursuant hereto or under law or equity, Valley Water hereby agrees (to the extent permitted by law) to indemnify and hold harmless the Administrative Agent and the Lenders and each of their respective Related Parties (each, an "Indemnitee") from and against any and all claims, damages, losses, liabilities, reasonable costs or expenses whatsoever (including reasonable attorneys' fees) which may incur or which may be claimed against an Indemnitee by any Person or entity whatsoever (collectively, the "Liabilities")

by reason of or in connection with (i) the execution and delivery or transfer of, or payment or failure to pay under, any Related Document; (ii) the issuance or deemed issuance of any Certificate; and (iii) the use of the proceeds of the Certificates or a Term Loan; *provided* that Valley Water shall not be required to indemnify an Indemnitee for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, caused by the willful misconduct or gross negligence of such Indemnitee. Nothing under this Section 10.04 is intended to limit Valley Water's payment of the Obligations.

(c) *Waiver of Consequential Damages, Etc.* To the fullest extent permitted by applicable law, Valley Water shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Related Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, or the Certificates or the use of the proceeds thereof. No Indemnitee referred to in subsection (c) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Related Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(d) *Payments.* All amounts due under this Section shall be payable not later than ten (10) Business Days after demand therefor.

(e) *Survival.* The agreements in this Section shall survive the termination of the Available Commitment, this Agreement and the repayment, satisfaction or discharge of all the Obligations.

SECTION 10.05. *Payments Set Aside.* To the extent that any payment by or on behalf of Valley Water or the Corporation is made to any Lender, or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred.

SECTION 10.06. *Successors and Assigns.*

(a) *Successors and Assigns Generally.* This Agreement is a continuing obligation and shall be binding upon Valley Water and the Corporation and the successors, transferees and assigns of each of Valley Water and the Corporation and shall inure to the benefit of the Administrative Agent and the other Lenders and their respective permitted successors, transferees and assigns. Neither Valley Water nor the Corporation may assign or otherwise transfer any of its rights or

obligations hereunder without the prior written consent of the Administrative Agent and the other Lenders. Notwithstanding anything to the contrary set forth herein, so long as no Event of Default shall have occurred and be continuing hereunder, neither the Administrative Agent nor any Lender may assign its obligation to purchase Certificates pursuant to the terms of this Agreement without the prior written consent of Valley Water (such consent not to be unreasonably withheld) and the Administrative Agent (if such Lender is not the Administrative Agent). The Administrative Agent and each Lender may, in its sole discretion and in accordance with applicable Law, from time to time assign, sell or transfer in whole or in part, this Agreement, its rights and interests in the Certificates, the Term Loans and the Related Documents. Each Lender may at any time and from time to time enter into participation agreements in accordance with the provisions of paragraph (d) of this Section. Each Lender may at any time pledge or assign a security interest subject to the restrictions of paragraph (e) of this Section. Subject to the terms and conditions set forth herein, U.S. Bank National Association shall continue to be the Administrative Agent hereunder notwithstanding the sale or transfer of any Certificates and/or Term Loans to a Non-Lender Transferee as herein provided.

(b) *Sales and Transfers to a Lender Transferee.* Without limitation of the foregoing generality, a Holder may at any time sell or otherwise transfer to one or more transferees all or a portion of the Certificates, together with the corresponding obligations to extend Term Loans in the amount of and corresponding to such transferred Certificates, and/or Term Loans to a Person that is (i) a Lender Affiliate or (ii) a trust or other custodial arrangement established by a Lender or a Lender Affiliate, the owners of any beneficial interest in which are limited to “qualified institutional buyers” as defined in Rule 144A promulgated under the 1933 Act (each, a “*Lender Transferee*”). From and after the date of such sale or transfer, the applicable Lender Transferee (and its successors) shall continue to have all of the rights of such Lender hereunder and under the other Related Documents as if no such transfer or sale had occurred; *provided, however*, that (A) no such sale or transfer referred to in clause (b)(i) or (b)(ii) hereof shall in any way affect the obligations of the Lenders hereunder regarding the Purchase of Certificates, (B) any such sale or transfer referred to in clause (b)(i) or (b)(ii) hereof shall be in a minimum amount of \$250,000, (C) Valley Water, the Corporation and the Trustee shall be required to deal only with the Administrative Agent with respect to any matters designated to the Administrative Agent under this Agreement and (D) in the case of a sale or transfer referred to in clause (b)(i) or (b)(ii) hereof, regardless of whether the Lender Transferee holds a Master Certificate or a Lender Note, only the Administrative Agent shall be entitled to enforce the provisions of this Agreement against Valley Water and the Corporation, and the Lender Transferee shall execute and deliver a certificate to the Administrative Agent, Valley Water, the Corporation and the Trustee evidencing its acknowledgment and acceptance of the foregoing clauses (C) and (D).

(c) *Sales and Transfers to a Non-Lender Transferee.* Without limitation of the foregoing generality, a Holder may at any time sell or otherwise transfer to one or more transferees which are not Lender Transferees but each of which constitutes a commercial bank organized under the laws of the United States, or any state thereof, or any other country which is a member of the Organization for Economic Cooperation and Development, or a political subdivision of any such country, and, in any such case, having a combined capital and surplus, determined as of the date of any transfer pursuant to this clause (c), of not less than \$5,000,000,000 (each a “*Non-Lender Transferee*”) all or a portion of the Certificates, together with the corresponding

obligations to extend Term Loans in the amount of and corresponding to such transferred Certificates, and/or Term Loans if (A) written notice of such sale or transfer, including that such sale or transfer is to a Non-Lender Transferee, together with addresses and related information with respect to the Non-Lender Transferee, shall have been given to Valley Water, the Corporation, the Trustee and the Administrative Agent (if different than the Holder) by such selling Holder and Non-Lender Transferee; *provided, however*, that any sale or transfer shall be in a minimum amount of \$250,000, and (B) the Non-Lender Transferee shall have delivered to Valley Water, the Corporation, the Trustee and the selling Holder, a purchaser letter in substantially the form attached as Exhibit F to this Agreement (the “*Purchaser Letter*”); *provided, however*, that no such sale or transfer referred to in clause (c) hereof shall in any way affect the obligations of such Lender hereunder regarding the Purchase of Certificates.

From and after the date Valley Water, the Corporation, the Trustee, and the selling Holder have received written notice and an executed Purchaser Letter, (A) the Non-Lender Transferee thereunder shall be a party hereto and shall have the rights and obligations of a Holder hereunder and under the other Related Documents, and this Agreement shall be deemed to be amended to the extent, but only to the extent, necessary to effect the addition of the Non-Lender Transferee, and any reference to the assigning Holder hereunder and under the other Related Documents shall thereafter refer to such transferring Holder and to the Non-Lender Transferee to the extent of their respective interests, and (B) if the transferring Holder no longer owns any Certificates, maintains any Term Loans or has an obligation to make Purchases and/or extend Term Loans, then it shall relinquish its rights and be released from its obligations under this Agreement and the other Related Documents; *provided, however*, that (1) Valley Water, the Corporation and the Trustee shall be required to deal only with the Administrative Agent with respect to any matters designated to the Administrative Agent under this Agreement, and (2) regardless of whether the Non-Lender Transferee holds a Master Certificate or a Lender Note, only the Administrative Agent shall be entitled to enforce the provisions of this Agreement against Valley Water and the Corporation, and the Non-Lender Transferee shall execute and deliver a certificate to the Administrative Agent, Valley Water, the Corporation and the Trustee evidencing its acknowledgment and acceptance of the foregoing clauses (1) and (2).

(d) *Participations.* (i) The Lenders shall have the right to grant participations in all or a portion of such Lender’s interest in the Certificates and/or Term Loans, the Lender’s obligation to make Purchases and/or extend Term Loans, this Agreement and the other Related Documents to one or more other banking institutions; *provided, however*, that (A) no such participation by any such participant shall in any way affect the obligations of such Lender hereunder, (B) Valley Water shall be required to deal only with the Administrative Agent, with respect to any matters under this Agreement, the Certificates and the other Related Documents and no such participant shall be entitled to enforce any provision hereunder against Valley Water and (C) no such participant shall be entitled to receive payment hereunder of any amount greater than the amount which would have been payable had such Lender not granted a participation to such Participant.

(ii) Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of Valley Water, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant’s interest in the Certificates and/or Term Loans (the “*Participant Register*”); *provided* that no Lender has any

obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Certificates or Term Loans) to any Person other than the Administrative Agent, except to the extent that such disclosure is necessary to establish that such obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) has no responsibility for maintaining a Participant Register.

(e) *Certain Pledges.* A Lender may at any time pledge or grant a security interest in all or any portion of its rights under, or with respect to, the Certificates, the Term Loans, the Lender Note, this Agreement and the Related Documents to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or to any state or local governmental entity or with respect to public deposits; *provided that* no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(f) *Evidence of Ownership Interest.* Any Lender Transferee or Non-Lender Transferee may, by written notice to Valley Water, with a copy to the Administrative Agent, request that its ownership interest in the Master Certificate be evidenced by a separate Lender Note. Upon such request, Valley Water and the Administrative Agent will promptly cooperate with such Lender Transferee or Non-Lender Transferee, as applicable, to grant such request, in a manner reasonably satisfactory to all such parties.

SECTION 10.07. *Counterparts; Integration; Effectiveness.* This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Related Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 10.08. *Survival of Representations and Warranties.* All representations and warranties made hereunder and in any other Related Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Lenders, regardless of any investigation made by the Administrative Agent or on its behalf and notwithstanding that the Lenders may have had notice or knowledge of any Default or Event of Default at the time of any payment hereunder, and shall continue in full force and effect as long as any Obligation hereunder shall remain unpaid or unsatisfied or any portion of the Available Commitment shall remain outstanding.

SECTION 10.09. *Severability.* If any provision of this Agreement or the other Related Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Related Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

SECTION 10.10. *Governing Law.* THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK; *PROVIDED* THAT THE POWER AND AUTHORITY OF VALLEY WATER TO EXECUTE, DELIVER AND PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA.

SECTION 10.11. *Waiver of Jury Trial.* (a) EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER RELATED DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER RELATED DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(b) *Judicial Reference Provisions.* (i) Any and all disputes, claims and controversies arising out of the Related Documents or the transactions contemplated thereby (including, but not limited to, actions arising in contract or tort and any claims by a party to this Agreement (collectively, the “Parties”) against the Administrative Agent or the Lenders related in any way to the financing) (individually, a “Dispute”) that are brought before a forum in which pre-dispute waivers of the right to trial by jury are invalid under applicable law shall be subject to the terms of this Section 10.11(b) in lieu of the jury trial waivers otherwise provided in the Related Documents.

(ii) Any and all Disputes shall be heard by a referee and resolved by judicial reference pursuant to California Code of Civil Procedure Sections 638 et seq.

(iii) The referee shall be a retired California state court judge or an attorney licensed to practice law in the State of California with at least ten (10) years of experience practicing commercial law. The Parties shall not seek to appoint a referee that may be disqualified pursuant to California Code of Civil Procedure Section 641 or 641.2 without the prior written consent of all Parties.

(iv) If the Parties are unable to agree upon a referee with ten (10) calendar days after one Party serves a written notice of intent for judicial reference upon the other Party or Parties, then the referee will be selected by the court in accordance with California Code of Civil Procedure Section 640(b).

(v) The referee shall render a written statement of decision and shall conduct the proceedings in accordance with the California Code of Civil Procedure, the Rules of Court, and California Evidence Code, except as otherwise specifically agreed by the parties and approved by the referee. The referee's statement of decision shall set forth findings of fact and conclusions of law. The decision of the referee shall be entered as a judgment in the court in accordance with the provisions of California Code of Civil Procedure Sections 644 and 645. The decision of the referee shall be appealable to the same extent and in the same manner that such decision would be appealable if rendered by a judge of the superior court.

(vi) Nothing in this Section 10.11(b) shall be deemed to apply to or limit the right of the Lenders (a) to exercise self-help remedies such as (but not limited to) setoff, or (b) to foreclose judicially or nonjudicially against any real or personal property collateral, or to exercise judicial or nonjudicial power of sale rights, (c) to obtain from a court provisional or ancillary remedies (including, but not limited to, injunctive relief, a writ of possession, prejudgment attachment, a protective order or the appointment of a receiver), or (d) to pursue rights against a Party in a third-party proceeding in any action brought against the Lenders (including actions in bankruptcy court). The Lenders may exercise the rights set forth in the foregoing clauses (a) through (d), inclusive, before, during or after the pendency of any judicial reference proceeding. Neither the exercise of self-help remedies nor the institution or maintenance of an action for foreclosure or provisional or ancillary remedies or the opposition to any such provisional remedies shall constitute a waiver of the right of any Party, including, but not limited to, the claimant in any such action, to require submission to judicial reference the merits of the Dispute occasioning resort to such remedies. No provision in the Related Documents regarding submission to jurisdiction and/or venue in any court is intended or shall be construed to be in derogation of the provisions in any Related Document for judicial reference of any of Dispute.

(vii) If a Dispute includes multiple claims, some of which are found not subject to this Section 10.11(b), the Parties shall stay the proceedings of the Disputes or part or parts thereof not subject to this Section 10.11(b) until all other Disputes or parts thereof are resolved in accordance with this Section 10.11(b). If there are Disputes by or against multiple parties, some of which are not subject to this Section 10.11(b), the Parties shall sever the Disputes subject to this Section 10.11(b) and resolve them in accordance with this Section 10.11(b).

(viii) During the pendency of any Dispute which is submitted to judicial reference in accordance with this Section 10.11(b), each of the Parties to such Dispute shall bear equal shares of the fees charged and costs incurred by the referee in performing the services described in this Section 10.11(b). The compensation of the referee shall not exceed the prevailing rate for like services. The prevailing party shall be entitled to reasonable court costs and legal fees, including customary attorney fees, expert witness fees, paralegal fees, the fees of the referee and other reasonable costs and disbursements charged to the party by its counsel, in such amount as is determined by the Referee.

(ix) In the event of any challenge to the legality or enforceability of this Section 10.11(b), the prevailing Party shall be entitled to recover the costs and expenses from the non-prevailing Party, including reasonable attorneys' fees, incurred by it in connection therewith.

(x) THE PROVISIONS OF THIS SECTION 10.11(b) CONSTITUTE A "REFERENCE AGREEMENT" BETWEEN OR AMONG THE PARTIES WITHIN THE MEANING OF AND FOR PURPOSES OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638.

SECTION 10.12. *No Advisory or Fiduciary Responsibility.* In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Related Document), Valley Water and the Corporation acknowledge and agree, and acknowledges its Affiliates' understanding, that: (i) each of Valley Water, the Corporation and the Lenders has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (ii) each of Valley Water, the Corporation and the Lenders is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Related Documents.

SECTION 10.13. *Electronic Execution of Assignments and Certain Other Documents; Document Imaging; Telecopy and PDF Signatures.* (a) The words "execution," "signed," "signature," and words of like import in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including E-SIGN, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the UETA.

(b) Without notice to or consent of Valley Water or the Corporation, the Administrative Agent and each Lender may create electronic images of any Related Documents and destroy paper originals of any such imaged documents. Such images have the same legal force and effect as the paper originals and are enforceable against Valley Water and any other parties thereto. The Administrative Agent and each Lender may convert any Related Document into a "transferrable record" as such term is defined under, and to the extent permitted by, UETA, with the image of such instrument in the Administrative Agent's or such Lender's possession constituting an "authoritative copy" under UETA. If the Administrative Agent agrees, in its sole discretion, to accept delivery by telecopy or PDF of an executed counterpart of a signature page of any Related Document or other document required to be delivered under the Related Documents, such delivery will be valid and effective as delivery of an original manually executed counterpart of such document for all purposes. If the Administrative Agent agrees, in its sole discretion, to accept any electronic signatures of any Related Document or other document required to be delivered under the Related Documents, the words "execution," "signed," and "signature," and words of like import, in or referring to any document so signed will deemed to include electronic signatures and/or the keeping of records in electronic form, which will be of the same legal effect, validity and enforceability as a manually executed signature and/or the use of a paper-based recordkeeping system, to the extent and as provided for in any applicable law, including UETA, E-SIGN, or any

other state laws based on, or similar in effect to, such acts. The Administrative Agent and each Lender may rely on any such electronic signatures without further inquiry.

SECTION 10.14. *Government Regulations.* (a) Each Lender hereby notifies Valley Water and the Corporation 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 identifies Valley Water and the Corporation, which information includes the name and address of Valley Water and the Corporation and other information that will allow the Administrative Agent to identify Valley Water and the Corporation in accordance with the Patriot Act.

Valley Water and the Corporation shall, promptly following a request by the Administrative Agent, provide all documentation and other information that the Administrative Agent reasonably requests in order to comply with its ongoing obligations under applicable law or regulation, including, without limitation, “know your customer” and anti-money laundering rules and regulations, including the Patriot Act, and shall comply, and cause any of its subsidiaries to comply, with all applicable Bank Secrecy Act (“*BSA*”) laws and regulations, as amended.

(b) The transaction described in this Agreement is an arm’s length, commercial transaction among Valley Water, the Corporation and each Lender in which: (i) such Lender is acting solely as a principal (*i.e.*, as a credit provider) and for its own interest; (ii) such Lender is not acting as a municipal advisor or financial advisor to Valley Water or the Corporation; (iii) such Lender has no fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to either Valley Water or the Corporation with respect to this transaction and the discussions, undertakings and procedures leading thereto (irrespective of whether such Lender or any of its affiliates has provided other services or is currently providing other services to Valley Water or the Corporation on other matters); (iv) the only obligations such Lender has to Valley Water and the Corporation with respect to this transaction are set forth in this Agreement; and (v) such Lender is not recommending that Valley Water and the Corporation take an action with respect to the transaction described in this Agreement and the other Related Documents, and before taking any action with respect to the this transaction, Valley Water and the Corporation should discuss the information contained herein with their own respective legal, accounting, tax, financial and other advisors, as they deem appropriate.

SECTION 10.15. *Unconditional Obligations.* The obligations of Valley Water and the Corporation under this Agreement shall be absolute, unconditional, irrevocable and payable strictly in accordance with the terms of the Resolutions and this Agreement, under all circumstances whatsoever, including, without limitation, the following:

(a) any lack of validity or enforceability of this Agreement or, to the extent permitted by law, the Certificates, the Resolutions or any other Related Document;

(b) any amendment or waiver of or any consent to departure from the terms of the Resolutions or all or any of the other Related Documents to which the Required Lenders have not consented in writing;

(c) the existence of any claim, counterclaim, set-off, recoupment, defense, or other right which any Person may have at any time against the Lenders, Valley Water, the Trustee, the Paying Agent, or any other Person, whether in connection with this Agreement, the Resolutions, the other Related Documents, or any other transaction related thereto;

(d) any statement or any other document presented pursuant hereto which the any Lender in good faith determines to be valid, sufficient or genuine and which subsequently proves to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect whatsoever;

(e) any other circumstances or happening whatsoever whether or not similar to any of the foregoing.

SECTION 10.16. *Expenses and Taxes.* Valley Water will promptly pay (i) the reasonable fees and expenses of counsel to the Administrative Agent incurred in connection with the syndication of the facilities hereunder, the preparation, execution, delivery, and administration of this Agreement and the other Related Documents, (ii) the reasonable out-of-pocket expenses of the Administrative Agent incurred in connection with the preparation, execution, delivery, and administration of this Agreement and the other Related Documents, including without limitation, any fee payable to the California Debt and Investment Advisory Commission by the Administrative Agent with respect to the Note (the “*CDIAC Fee*”), which CDIAC Fee shall be reimbursed within thirty (30) days of the Closing Date, (iii) the reasonable fees and disbursements of counsel to the Administrative Agent with respect to advising such Administrative Agent as to the rights and responsibilities under this Agreement and the other Related Documents, and (iv) all reasonable costs and expenses, if any, of the Administrative Agent and the other Lenders in connection with any amendment or the enforcement of this Agreement and any other documents which may be delivered in connection herewith or therewith, including in each case the fees and disbursements of counsel to the Administrative Agent. In addition, Valley Water shall pay 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 and the security contemplated by any Related Documents and agrees to hold the Administrative Agent and the other Lenders 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. In addition, Valley Water agrees to pay, after the occurrence of an Event of Default, all costs and expenses (including attorneys’ fees and costs of settlement) incurred by the Administrative Agent and the Lenders in enforcing any obligations or in collecting any payments due from Valley Water hereunder or under any other Related Document by reason of such Event of Default or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a “workout” or of any insolvency or bankruptcy proceedings. The obligations of Valley Water under this Section 10.16 shall survive the termination of this Agreement.

SECTION 10.17. *Modification, Amendment, Waiver, Etc.* No modification, amendment or waiver of any provision of this Agreement shall be effective unless the same shall be in writing and signed in accordance with Section 10.01 hereof.

SECTION 10.18. *Dealing with Valley Water, the Corporation, the Trustee and/or the Paying Agent.* Each Lender and its affiliates may accept deposits from, extend credit to and generally engage in any kind of banking, trust or other business with Valley Water, the Corporation, the Trustee and/or the Paying Agent regardless of the capacity of such Lender hereunder.

SECTION 10.19. *Table of Contents; Headings.* The table of contents and the Section and subsection headings used herein have been inserted for convenience of reference only and do not constitute matters to be considered in interpreting this Agreement.

SECTION 10.20. *Right of Setoff; Other Collateral.* (a) Upon the occurrence and during the continuance of an Event of Default, to the extent not inconsistent with the Senior Master Resolution, Parity Master Resolution or any contractual or other obligation of Valley Water or the Corporation providing for or relating to Subordinate Obligations, each Lender is hereby authorized at any time and from time to time without notice to Valley Water or the Corporation (any such notice being expressly waived by Valley Water or the Corporation), and to the fullest extent permitted by law, to setoff, to exercise any banker's lien or any right of attachment and apply any and all balances, credits, deposits (general or special, time or demand, provisional or final), accounts or monies at any time held, to the extent such balances, credits, deposits and monies relate to the Water Utility System Revenue Fund or Water Utility System Revenues, and other indebtedness at any time owing by such Lender to or for the account of Valley Water (irrespective of the currency in which such accounts, monies or indebtedness may be denominated and such Lender is authorized to convert such accounts, monies and indebtedness into United States dollars) against any and all amounts owed to such Lender by Valley Water or the Corporation hereunder of Valley Water or the Corporation, whether or not such Lender shall have made any demand for any amount owing to such Lender by Valley Water or the Corporation.

Section 10.21. EMMA Postings. Valley Water shall not file or submit or permit the filing or submission, of all or any portion of any document (or any summary thereof) entered into in connection with this Agreement or the other Related Documents (or any default, event of acceleration, termination event, modification of terms or other similar events relating to the Certificates or this Agreement) with EMMA (or any successor continuing disclosure vehicle) unless, to the extent reasonably practicable without failing to comply with federal securities laws or any continuing disclosure undertaking entered in connection therewith, such document or portion thereof (or summary thereof), as applicable, to be so filed or submitted (i) has been provided to the Administrative Agent for review in advance of such filing or submission, and (ii) shall have been redacted to the extent reasonably required by the Administrative Agent, provided that such redaction may be no greater than permitted under applicable federal securities law guidance, if any. Valley Water acknowledges and agrees that although the Administrative Agent may request review, edits or redactions of such materials prior to filing, the Administrative Agent is not responsible for Valley Water's or any other entity's (including, but not limited to, any broker-dealer's) compliance or noncompliance (or any claims, losses or liabilities arising therefrom) with any continuing disclosure undertaking, similar agreement or applicable securities or other laws, including but not limited to those relating to Rule 15c2-12 promulgated pursuant to the Securities and Exchange Act of 1934, as amended.

Section 10.22. Acknowledgement Regarding Any Supported QFCs. To the extent that the Related Documents provide support, through a guarantee or otherwise, for Swap Contracts or any other agreement or instrument that is a QFC (such support, “*QFC Credit Support*” and each such QFC a “*Supported QFC*”), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “*U.S. Special Resolution Regimes*”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Related Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

In the event a Covered Entity that is party to a Supported QFC (each, a “*Covered Party*”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Related Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Related Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

Section 10.23. Several Obligations. The obligations of the Lenders hereunder are several and not joint and no Lender is the partner or agent of any other (except to the extent the Administrative Agent is authorized to act as such). The failure of any Lender to perform any of its obligations hereunder shall not relieve any other Lender from any of its obligations hereunder.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

SANTA CLARA VALLEY WATER DISTRICT

By: _____
Authorized Officer

Attest:

By: _____
Its: _____

SANTA CLARA VALLEY WATER DISTRICT
PUBLIC FACILITIES FINANCING CORPORATION

By: _____
Authorized Officer

U.S. BANK NATIONAL ASSOCIATION, as
Administrative Agent and Lender.

By: _____

Name:

Title:

[LENDER], as Lender

By: _____

Name:

Title:

[LENDER], as Lender

By: _____

Name:

Title:

SCHEDULE I**CERTAIN ADDRESSES FOR NOTICES****VALLEY WATER:**

Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118-3614
Attention: Charlene Sun
Facsimile: (408) 979-5612
Telephone: (408) 630-2528
E-mail: csun@valleywater.org

CORPORATION:

Santa Clara Valley Water District Public Facilities Financing Corporation
c/o Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118-3614
Attention: Charlene Sun
Facsimile: (408) 979-5612
Telephone: (408) 630-2528
E-mail: csun@valleywater.org

ADMINISTRATIVE AGENT:

For all notices and Requests for Purchase:

U.S. Bank National Association

[TO COME]

Wire Instructions:

[TO COME]

LENDERS:

[Bank of San Francisco]

[TO COME]

[Community Bank of the Bay]

[TO COME]

[First Foundation Bank]

[TO COME]

TRUSTEE:

U.S. Bank National Association
1 California Street, Suite 1000
San Francisco, California 94111
Attention: Mary Wong
Facsimile: (415) 677-3768
Telephone: (415) 677-3602

PAYING AGENT:

U.S. Bank National Association
100 Wall Street, Suite 1600
New York, New York 10005
Attention: Commercial Paper Operations
Facsimile: (212) 509-4529
Telephone: (212) 951-8512

SCHEDULE II**COMMITMENTS**

<u>Lender</u>	<u>Commitment</u>
U.S. Bank National Association [Bank of San Francisco] [Community Bank of the Bay] [First Foundation Bank]	\$150,000,000.00
TOTAL:	[\$170,000,000].00

EXHIBIT A**[FORM OF REQUEST FOR PURCHASE]****REQUEST FOR PURCHASE****[Date]**

U.S. Bank National Association

_____Attention: _____
Facsimile: _____
Telephone: _____
E-mail: _____

Ladies and Gentlemen:

The undersigned, an Authorized Officer, refers to the Certificate Purchase and Reimbursement Agreement, dated as of October 1, 2020 (together with any amendments or supplements thereto, the “*Agreement*”), by and among the Santa Clara Valley Water District (“*Valley Water*”), the Santa Clara Valley Water District Public Facilities Financing Corporation (the “*Corporation*”), the Lenders (as defined in the Agreement) and the undersigned, U.S. Bank National Association (the “*Administrative Agent*”) (the terms defined therein being used herein as therein defined), hereby confirms that (x) the representations and warranties contained in Article V of the Agreement are true and correct in all material respects as of the date hereof, and (y) no event has occurred and is continuing, or would result from such Lender purchasing such Certificate, which constitutes a Default or Event of Default, and hereby requests, pursuant to Section 2.03 of the Agreement, that the Lenders make a Purchase of Certificates on a pro rata basis under the Agreement, and in that connection sets forth below the following information relating to such Purchase (the “*Proposed Purchase*”):

1. The Business Day of the Proposed Purchase is _____ (the “*Purchase Date*”), which is at least four Business Days after the date hereof.

2. The principal amount of the Proposed Purchase of a Certificate is \$_____, which is not greater than the Available Commitment as of the Purchase Date set forth in 1 above.

3. The Certificate shall be a [Taxable Certificate and bear interest at the Taxable LIBOR Rate] [Tax-Exempt Certificate and bear interest at a Tax-Exempt LIBOR Rate].

4. The TRAN to which the Certificate relates to will be issued and outstanding on the Purchase Date.

5. With respect to Tax-Exempt Certificates only, neither Valley Water nor the Administrative Agent shall have received written notice from Bond Counsel that the approving opinion delivered pursuant to Section 4.01(c)(ii) of the Agreement may no longer be relied upon.

The Proposed Purchase shall be made by the Administrative Agent by wire transfer of immediately available funds to the Paying Agent in accordance with the instructions set forth below:

[Insert wire instructions]

Attest:

SANTA CLARA VALLEY WATER DISTRICT

By: _____
Its: _____

By: _____
Authorized Officer

EXHIBIT B**[FORM OF REQUEST FOR EXTENSION****REQUEST FOR EXTENSION****[Date]**

U.S. Bank National Association

_____Attention: _____
Facsimile: _____
Telephone: _____
E-mail: _____

Ladies and Gentlemen:

Reference is made to the Certificate Purchase and Reimbursement Agreement dated as of October 1, 2020 (together with any amendments or supplements thereto, the “*Agreement*”) by and among the undersigned Santa Clara Valley Water District (“*Valley Water*”), the Santa Clara Valley Water District Public Facilities Financing Corporation (the “*Corporation*”), the Lenders (as defined in the Agreement) and U.S. Bank National Association (the “*Administrative Agent*”). All terms defined in the Agreement are used herein as defined therein.

Valley Water hereby requests, pursuant to Section 2.12 of the Agreement, that the Commitment Expiration Date with respect to the Commitment as of the date hereof be extended to _____. Pursuant to such Section 2.12, we have enclosed with this request the following information:

1. a reasonably detailed description of any and all Defaults and/or Events of Default that have occurred and are continuing;
2. confirmation that all representations and warranties of Valley Water as set forth in Article V of the Agreement and each Related Document are true and correct as though made on the date hereof and that no Default or Event of Default has occurred and is continuing (to the extent not disclosed pursuant to clause 1 above) on the date hereof; and
3. any other pertinent information previously requested by the Administrative Agent.

The Administrative Agent is asked to notify Valley Water of its decision with respect to this request within 60 days of the date of receipt hereof. If the Administrative Agent fails to notify

Valley Water of the Administrative Agent's decision within such 60-day period, the Administrative Agent shall be deemed to have rejected such request.

Very truly yours,

Attest:

SANTA CLARA VALLEY WATER DISTRICT

By: _____
Its: _____

By: _____
Authorized Officer

EXHIBIT C

[FORM OF NOTICE OF TERMINATION OR REDUCTION]

NOTICE OF TERMINATION OR REDUCTION

[Date]

U.S. Bank National Association

Attention: _____
Facsimile: _____
Telephone: _____
E-mail: _____

Ladies and Gentlemen:

Re: Certificate Purchase and Reimbursement Agreement dated as of October 1, 2020

The Santa Clara Valley Water District (“*Valley Water*”), through its undersigned, an Authorized Officer, hereby certifies to U.S. Bank National Association (the “*Administrative Agent*”), with reference to the Certificate Purchase and Reimbursement Agreement dated as of October 1, 2020 (together with any amendments or supplements thereto, the “*Agreement*”), by and among Valley Water, the Santa Clara Valley Water District Public Facilities Financing Corporation, the Lenders (as defined in the Agreement) and the Administrative Agent (the terms defined therein and not otherwise defined herein being used herein as therein defined):

[Valley Water hereby informs you that the Available Commitment is terminated in accordance with the Agreement.]

OR

[Valley Water hereby informs you that the Available Commitment is permanently reduced from [insert amount as of the date of this Notice] to [insert new amount], such reduction to be effective on _____.]

IN WITNESS WHEREOF, Valley Water has executed and delivered this Notice this _____ day of _____, _____.

Attest:

SANTA CLARA VALLEY WATER DISTRICT

By: _____
Its: _____

By: _____
Authorized Officer

EXHIBIT D

[FORM OF NOTICE OF REDUCTION]

NOTICE OF REDUCTION

[Date]

Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118-3614
Attention: Treasury Officer

Santa Clara Valley Water District Public Facilities Financing Corporation
c/o Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118-3614

Ladies and Gentlemen:

We hereby notify you that pursuant to Section 2.09 of the Certificate Purchase and Reimbursement Agreement dated as of October 1, 2020 (the “*Agreement*”), by and among the undersigned, U.S. Bank National Association, the Lenders (as defined in the Agreement), the Santa Clara Valley Water District and the Santa Clara Valley Water District Public Facilities Financing Corporation, the Available Commitment is permanently reduced from **[insert amount as of the date of this Notice]** to **[insert new amount]**, such reduction to be effective on _____.

Very truly yours,

U.S. BANK NATIONAL ASSOCIATION

By _____

EXHIBIT E

[FORM OF NOTICE OF EXTENSION]

NOTICE OF EXTENSION

[Date]

Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118-3614
Attention: Treasury Officer

Santa Clara Valley Water District Public Facilities Financing Corporation
c/o Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118-3614

Ladies and Gentlemen:

We hereby notify you that pursuant to Section 2.12 of the Certificate Purchase and Reimbursement Agreement dated as of October 1, 2020 (the “*Agreement*”), by and among the undersigned, U.S. Bank National Association, the Lenders (as defined in the Agreement) the Santa Clara Valley Water District and the Santa Clara Valley Water District Public Facilities Financing Corporation, the Commitment Expiration Date with respect to the Available 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 V of the Agreement and each other Related Document 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.

Very truly yours,

U.S. BANK NATIONAL ASSOCIATION

By _____

[LENDERS]

By _____

Acknowledged as of _____, _____ by

Attest:

SANTA CLARA VALLEY WATER DISTRICT

By: _____
Its: _____

By: _____
Authorized Officer

EXHIBIT F**FORM OF PURCHASER LETTER**

_____, 20__

Santa Clara Valley Water District
San Jose, California

Santa Clara Valley Water District Public Facilities Financing Corporation
San Jose, California

Re: \$[170,000,000]

Santa Clara Valley Water District Revolving Certificates
Series C (Tax-Exempt) and Series D (Taxable)

Ladies and Gentlemen:

This letter is to provide you with certain representations and agreements with respect to our purchase of the above-referenced certificates (collectively, the “*Certificates*”). The Certificates will be executed and delivered under that certain Resolution No. PFFC-20-__, adopted by the Santa Clara Valley Water District Public Facilities Financing Corporation (the “*Corporation*”) on April 17, 2020 (the “*Corporation Resolution*”). _____ (the “*Lender*,” the “*undersigned*,” “*us*” or “*we*,” as applicable) is purchasing the Certificates pursuant a Certificate Purchase and Reimbursement Agreement dated as of October 1, 2020, by and among the Santa Clara Valley Water District (“*Valley Water*”), the Corporation, and the Lender. We hereby represent and warrant to you and agree with you as follows:

1. We understand that the Certificates have not been registered pursuant to the Securities Act of 1933, as amended (the “*1933 Act*”), the securities laws of any state nor has the Corporation Resolution been qualified pursuant to the Trust Indenture Act of 1939, as amended, in reliance upon certain exemptions set forth therein. We acknowledge that the Certificates (i) are not being registered or otherwise qualified for sale under the “blue sky” laws and regulations of any state, (ii) will not be listed on any securities exchange, and (iii) will not carry a rating from any rating service.

2. We have not offered, offered to sell, offered for sale or sold any of the Certificates by means of any form of general solicitation or general advertising, and we are not an underwriter of the Certificates within the meaning of Section 2(11) of the 1933 Act.

3. We have sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by the purchase of the Certificates.

4. We have authority to purchase the Certificates and to execute this letter and any other instruments and documents required to be executed by the purchaser in connection with the purchase of the Certificates.

5. The undersigned is a duly appointed, qualified and acting representative of the Lender and is authorized to cause the Lender to make the certifications, representations and warranties contained herein by execution of this letter on behalf of the Lender.

6. The Lender is able to bear the economic risks of such investment.

7. The undersigned understands that no official statement, prospectus, offering circular, or other comprehensive offering statement is being provided with respect to the Certificates. The undersigned has made its own inquiry and analysis with respect to Valley Water, the Certificates and the security therefor, and other material factors affecting the security for and payment of the Certificates.

8. The undersigned acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information, regarding Valley Water, to which a reasonable purchaser would attach significance in making debt purchasing decisions, and has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning Valley Water, the Certificates and the security therefor, so that as a reasonable purchaser, it has been able to make its decision to purchase the Certificates.

9. The Certificates are being acquired by the Lender for its own account and not with a present view toward resale or distribution; *provided, however*, that the Lender reserves the right to sell, transfer or redistribute the Certificates, but agrees that any such sale, transfer or distribution by the Lender shall be to a Person:

(a) that is an affiliate of the Lender;

(b) that is a trust or other custodial arrangement established by the Lender or one of its affiliates, the owners of any beneficial interest in which are limited to qualified institutional buyers; or

(c) that the Lender reasonably believes to be a commercial bank organized under the laws of the United States, or any state thereof, or any other country which is a member of the Organization for Economic Cooperation and Development, or a political subdivision of any such country, and, in any case, having a combined capital and surplus of not less than \$5,000,000,000 as of the date of such sale, transfer or distribution who executes an purchaser letter substantially in the form of this letter.

Very truly yours,

[LENDER]

By _____

EXHIBIT G**COMPLIANCE CERTIFICATE**

For the Quarter/Year ended _____ (“*Statement Date*”)

U.S. Bank National Association
[Address]
Attention:

Ladies and Gentlemen:

We refer to the Certificate Purchase and Reimbursement Agreement, dated as of October 1, 2020 (as amended, restated and supplemented from time to time, the “*Certificate Purchase and Reimbursement Agreement*”), by and among the Santa Clara Valley Water District (“*Valley Water*”), Santa Clara Valley Water District Public Facilities Financing Corporation (the “*Corporation*”), the Lenders (as defined in the Certificate Purchase and Reimbursement Agreement) and U.S. Bank National Association (and its successors and assigns, the “*Administrative Agent*”). All capitalized terms herein having the meanings ascribed thereto in the Certificate Purchase and Reimbursement Agreement.

The undersigned authorized representative of Valley Water hereby certifies as of the date hereof that he/she is the _____ of Valley Water, and that, as such, he/she is authorized to execute and deliver this Certificate to the Administrative Agent on the behalf of Valley Water, and that:

[Include following paragraph 1 for fiscal year-end financial statements]

1. Attached hereto as Schedule 1 are the audited financial statements of Valley Water required by Section 6.01(a) of the Certificate Purchase and Reimbursement Agreement for the fiscal year of Valley Water ended as of the above referenced Statement Date, prepared in accordance with generally accepted accounting principles for governmental entities consistently applied including (i) a balance sheet for the fiscal year of Valley Water ended as of the above referenced Statement Date, (ii) the related statements of operations and changes in equity, (iii) statements of cash flows for such fiscal year, setting forth in each case, in comparative form, the figures for the previous fiscal year, all certified and accompanied by an unqualified opinion of an independent certified public accounting firm to the effect that such audited financial statements have been prepared in accordance with generally accepted accounting principles applied on a consistent basis and fairly present the financial condition of Valley Water as at their date and the results of its operations for the period then ended.

[Start with the following as paragraph 1 for fiscal quarter-end compliance certificates]

[2.][1.] The undersigned has reviewed and is familiar with the terms of the Certificate Purchase and Reimbursement Agreement and has reviewed Valley Water’s obligations thereunder and under the other Related Documents 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 Valley Water during the accounting period covered by the attached financial statements.

[3.][2.] The examination described in paragraph 2 herein did not disclose, and I have no knowledge of, the existence of any condition or event which constitutes an Event of Default or Default under the Certificate Purchase and Reimbursement Agreement or a default or event of default under any other Related Document, during or at the end of the accounting period covered by the attached financial statements or as of the date of this Certificate, except as set forth in a separate attachment, if any, to this Certificate, describing in detail, the nature of the condition or event, the period during which it has existed and the action which Valley Water has taken, is taking, or proposes to take with respect to each such condition or event.

[4.][3.] The representations and warranties of Valley Water contained in Section 5.01 of the Certificate Purchase and Reimbursement Agreement, and/or any representations and warranties of Valley Water that are contained in any other Related Document or any document furnished at any time under or in connection with the Certificate Purchase and Reimbursement Agreement, are true and correct in all material respects on and as of the date hereof (except for those representations and warranties that are conditioned by materiality, which are true and correct in all respects), except to the extent that such representations and warranties specifically relate to an earlier date, in which case they are true and correct in all material respects (except for those representations and warranties that are conditioned by materiality, which are true and correct in all respects), on and as of such earlier date as of such earlier date.

[Include following paragraph 5 only for fiscal year-end financial statements]

5. Valley Water has kept, observed, performed and fulfilled each and every covenant, provision and condition of the Certificate Purchase and Reimbursement Agreement on its part to be performed and is not in default in the performance or observance of any of the terms, covenants, provisions or conditions of the Certificate Purchase and Reimbursement Agreement, including, but not limited to, the covenants contained in Section 6.20 of the Certificate Purchase and Reimbursement Agreement, as demonstrated on Schedule 2 attached hereto. The financial covenant analyses and information set forth on Schedule 2 attached hereto are true and accurate on and as of the date of this Certificate.

[Include following paragraph 6 only for demonstrating compliance with Section 6.03 of the Certificate Purchase and Reimbursement Agreement]

6. Valley Water has kept, observed, performed and fulfilled the covenants contained in Section 6.03 of the Certificate Purchase and Reimbursement Agreement, as demonstrated on Schedule 2 attached hereto. The financial covenant analyses and information set forth on Schedule 2 attached hereto are true and accurate on and as of the date of this Certificate.

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

_____.

SANTA CLARA VALLEY WATER DISTRICT

By: _____

**[Include following Schedule 2 only for fiscal year-end financial statements and paragraph
(B) of Schedule 2 for demonstrating compliance with Section 6.03 of the Certificate
Purchase and Reimbursement Agreement]**

SCHEDULE 2

TO THE COMPLIANCE CERTIFICATE

SECTION 6.20 RATE COVENANT AND DEBT SERVICE COVERAGE COVENANT

For the Year ended _____ (“*Statement Date*”)

- A. Parity Debt Service Coverage Ratio:
- | | | |
|----|---|----------|
| a. | Net Water Utility System Revenues for FY__: | \$ _____ |
| b. | Senior Debt Service: | \$ _____ |
| c. | All other transfers and payments from the Water Utility System Revenue Fund required under Sections 2.2(a), (b), and (c) of the Parity Master Resolution not already taken into account in lines a and b: | \$ _____ |
| d. | Line a minus lines b and c (Net Water Utility System Revenues available for Parity Debt Service): | \$ _____ |
| e. | Parity Debt Service: | \$ _____ |
| | Parity Debt Service Coverage Ratio (d/e)
(1.25x minimum): | |
- B. Subordinate Lien Debt Service Coverage Ratio:
- | | | |
|----|---|----------|
| a. | Net Water Utility System Revenues for FY__: | \$ _____ |
| b. | Senior Debt Service: | \$ _____ |
| c. | Parity Debt Service: | |
| d. | All other transfers and payments from the Water Utility System Revenue Fund required under Sections 2.2(a), (b), (c), (d) and (e) of the Parity Master Resolution not already taken into account in lines a, b and c: | \$ _____ |
| e. | Line a minus lines b, c and d (Net Water Utility System Revenues available for Subordinate Debt Service): | \$ _____ |
| f. | Subordinate Debt Service: | \$ _____ |
| | Subordinate Debt Service Coverage Ratio (e/f)
(1.10x minimum): | |

EXHIBIT H**[FORM OF LENDER NOTE]**

\$ _____ Maximum Principal Amount _____, 2020

FOR VALUE RECEIVED, the undersigned, SANTA CLARA VALLEY WATER DISTRICT (“*Valley Water*”), hereby promises to pay to the order of U.S. Bank National Association (the “*Administrative Agent*”), at its principal office at _____, _____, California _____, in the manner and on the dates provided in the hereinafter defined Agreement in lawful money of the United States of America and in immediately available funds, the principal amount equal to the aggregate unreimbursed amount of the Term Loans made by the Lenders pursuant to the Agreement not to exceed _____ Million and No/100 Dollars (\$_____). Terms used herein and not otherwise defined herein shall have the meanings assigned to them in the Certificate Purchase and Reimbursement Agreement dated as of October 1, 2020 (as amended, restated, supplemented and otherwise modified from time to time, the “*Agreement*”) among Valley Water, Santa Clara Valley Water District Public Facilities Financing Corporation (the “*Corporation*”), the Lenders (as defined in the Agreement) and the Administrative Agent.

Valley Water further promises to pay interest from the date hereof on the outstanding principal amount hereof and unpaid interest hereon from time to time at the rates and times and in all cases in accordance with the terms of the Agreement. The Administrative Agent may endorse its records relating to this Lender Note with appropriate notations evidencing the Term Loans under the Agreement and payments of principal hereunder as contemplated by the Agreement.

This Lender Note evidences the Reimbursement Obligations of the Lender as provided in Section 2.06(e) of the Agreement, and such Reimbursement Obligations are secured as provided in the Agreement. The principal of this Lender Note is subject to prepayment in whole or in part in accordance with the terms of the Agreement.

The parties hereto, including the undersigned maker and all guarantors, endorsers and pledgors that may exist at any time with respect hereto, hereby waive presentment, demand, notice, protest and all other demands and notices in connection with the delivery, acceptance, performance and enforcement of this Lender Note and assent to the extensions of the time of payment or forbearance or other indulgence without notice.

THIS LENDER NOTE SHALL FOR ALL PURPOSES BE GOVERNED BY AND INTERPRETED AND DETERMINED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA (EXCLUDING THE LAWS APPLICABLE TO CONFLICTS OR CHOICE OF LAW).

IN WITNESS WHEREOF, Valley Water has caused this Lender Note to be signed in its name as an instrument by its duly authorized officer on the date and in the year first above written.

SANTA CLARA VALLEY WATER DISTRICT

By: _____

Attest:

By: _____

Title: _____

EXHIBIT I
TAX-EXEMPT TRAN

EXHIBIT J
TAXABLE TRAN