

INSTALLMENT PURCHASE AGREEMENT

by and between

MONTEREY COUNTY WATER RESOURCES AGENCY

and

MONTEREY COUNTY FINANCING AUTHORITY

Dated as of June 1, 2018

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INSTALLMENT PURCHASE AGREEMENT

THIS INSTALLMENT PURCHASE AGREEMENT (this “Installment Purchase Agreement”), dated as of June 1, 2018, is by and between the MONTEREY COUNTY WATER RESOURCES AGENCY (the “Agency”), a flood control and water agency organized and existing under and by virtue of the laws of the State of California, and the MONTEREY COUNTY FINANCING AUTHORITY (the “Authority”), a joint exercise of powers authority organized and existing under and by virtue of the laws of the State of California.

WITNESSETH:

WHEREAS, the Agency previously financed the acquisition, construction and installation of a Salinas River diversion facility and certain spillway modifications at Nacimiento Dam in order to provide the ability to divert Salinas River water into the existing Castroville Seawater Intrusion Project distribution system (the “Project”);

WHEREAS, the Monterey County Financing Authority (the “Authority”) assisted the Agency in financing the Project through the issuance of its Monterey County Financing Authority Revenue Bonds, Series A (Salinas Valley Water Project), dated July 30, 2008 (the “2008 Bonds”);

WHEREAS, the 2008 Bonds are payable from and secured by installment payments (the “2008 Installment Payments”) made by the Agency pursuant to an Installment Purchase Agreement by and between the Agency and the Authority;

WHEREAS, the Agency desires to refinance the Project;

WHEREAS, in order to provide funds to refinance the Project, prepay all the 2008 Installment Payments and refund all of the 2008 Bonds, the Authority desires to assist the Agency and issue the Monterey County Financing Authority 2018 Revenue Refunding Bonds (the “Authority Bonds”);

WHEREAS, the Authority Bonds will be payable from and secured by installment payments to be made by the Agency pursuant to this Installment Purchase Agreement;

WHEREAS, in connection with the installment payments, the Auditor-Controller of the County (the “Auditor-Controller”) will transfer certain ad valorem taxes and pledged assessments directly to the Trustee pursuant to a Pledged Ad Valorem Taxes and Pledged Assessments Payment Agreement, dated as June ___, 2018 (the “Payment Agreement”), by and among the Auditor-Controller, the Agency and the Trustee; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of this Installment Purchase Agreement do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Installment Purchase Agreement;

NOW, THEREFORE, in consideration of the covenants and provisions herein set forth and for other valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01 Definitions. Unless the context otherwise requires, the terms defined in this Section shall for all purposes hereof and of any certificate, opinion, request, report or other document mentioned herein have the meanings defined herein.

“**Act**” means the Monterey County Water Resources Agency Act, California Water Code Appendix Chapter 52 (West’s Annotated Codes).

“**Administrative Costs**” means the ordinary and necessary administrative costs and incidental expenses related to the Authority Bonds, the Indenture and this Installment Purchase Agreement, including, but not limited to Trustee fees (including any fees and expenses of its counsel) and indemnification payable by the Authority to the Trustee pursuant to the Indenture, [reimbursement of charges, fees, costs and expenses paid or incurred by the Insurer and payable by the Authority to the Insurer pursuant to the Indenture and indemnification payable by the Authority to the Insurer pursuant to the Indenture,] costs and expenses incurred in complying with the provisions of the Continuing Disclosure Agreement and costs and expenses incurred in connection with the calculation of arbitrage rebate due to the federal government with respect to the Authority Bonds.

“**Agency**” means the Monterey County Water Resources Agency, a flood control aid water agency organized and existing under and by virtue of the laws of the State, and any successor thereto.

“**Annexation Fees**” means annexation fees imposed in connection with one or more parcels of property being annexed into a zone or zones, the parcels of property in which are subject to Pledged Assessments.

“**Assessment Ordinance**” means Ordinance No. 04203, adopted by the Board of Supervisors on July 22, 2003, enacted pursuant to Sections 6, 9, 20, 24 and 24.1 of the Act, as originally adopted, as modified by the stipulated judgment in *Salinas Valley Property Owners for Lawful Assessments, et al. v. County of Monterey, et al.* (Case No. M66890), and as it may from time to time be amended or supplemented.

“**Auditor-Controller**” means the Auditor-Controller of the County.

“**Authority**” means the Monterey County Financing Authority, a joint exercise of powers authority organized and existing under and by virtue of the laws of the State, and any successor thereto.

“**Authority Bonds**” means the Monterey County Financing Authority 2018 Revenue Refunding Bonds issued under and pursuant to the Indenture.

“Authorized Representative” means the General Manager of the Agency, the Deputy General Manager of the Agency and the Finance Manager of the Agency, and any other Person authorized by the Board of Directors to act on behalf of the Agency under or with respect to this Installment Purchase Agreement.

“Board of Directors” means the Board of Directors of the Agency.

“Board of Supervisors” means the Board of Supervisors of the Agency.

“Bond Counsel” means a firm of attorneys which are nationally recognized as experts in the area of municipal finance.

“Bond Year” means the period from the Closing Date through September 1, 2018 and, thereafter, the twelve-month period commencing on September 2 of each year through and including September 1 of the following year.

“Business Day” means a day which is not (a) a Saturday, Sunday or legal holiday in the State, (b) a day on which banking institutions in the State, or in any state in which the Office of the Trustee is located, are required or authorized by law (including executive order) to close, or (c) a day on which the New York Stock Exchange is closed.

“Closing Date” means June ____, 2018.

“Code” means the Internal Revenue Code of 1986.

“County” means the County of Monterey, county and political subdivision of the State organized and existing under and by virtue of the laws of the State, and any successor thereto.

“Debt Service Fund” means the fund by that name established and held by the Trustee pursuant to the Indenture.

“Event of Default” means an event described in Section 8.01 hereof.

“Fiscal Year” means the period beginning on July 1 of each year and ending on the next succeeding June 30, or any other twelve-month period selected and designated as the official Fiscal Year of the Agency.

“Hydroelectric Facility” means the facility for the generation of electrical energy located at Nacimiento Dam, owned and operated by the Agency, and any improvements thereto.

“Hydroelectric Facility Maintenance and Operations Costs” means, for any period, the reasonable and necessary costs spent or incurred by the Agency for maintaining, operating, repairing, insuring and administering the Hydroelectric Facility and providing the services of the Hydroelectric Facility, calculated in accordance with generally accepted accounting principles, including, but not limited to (a) all expenses necessary to maintain and preserve the Hydroelectric Facility in good repair and working order, and (b) all administrative costs allocable to the operation of the Hydroelectric Facility, such as salaries and wages of employees, payments to employee retirement systems, other post-employment benefits, overhead, insurance, taxes (if any), fees of

auditors, accountants, attorneys or engineers and insurance premiums, but excluding in all cases (i) depreciation, replacement and obsolescence charges or reserves therefor, (ii) amortization of intangibles or other bookkeeping entries of a similar nature, and (iii) costs of capital additions, replacements, betterments, extensions or improvements to the Hydroelectric Facility, which under generally accepted accounting principles are chargeable to a capital account or to a reserve for depreciation.

“Hydroelectric Facility Net Revenues” means, for any period, the Hydroelectric Facility Revenues for such period, less the Hydroelectric Facility Maintenance and Operations Costs for such period.

“Hydroelectric Facility Revenues” means, for any period, all income and revenue received by the Agency during such period from the operation or ownership of the Hydroelectric Facility, determined in accordance with generally accepted accounting principles, including all payments received by the Agency from the sale of electrical energy generated by the Hydroelectric Facility, whether pursuant to the Power Purchase Agreement or otherwise.

“Indenture” means the Indenture, dated as of the date hereof, by and between the Authority and the Trustee, as originally executed and as it may from time to time be amended or supplemented in accordance with the terms thereof.

“Installment Payments” means the Installment Payments required to be made by the Agency pursuant to Section 4.03 hereof.

“Installment Purchase Agreement” means this Installment Purchase Agreement, as originally executed and as it may from time to time be amended or supplemented in accordance with the terms hereof.

[**“Insurance Policy”** means the financial guaranty insurance policy issued by the Insurer guaranteeing the scheduled payment of the principal of and interest on the Bonds when due.]

[**“Insurer”** means _____, a _____-domiciled insurance company, or any successor thereto or assignee thereof.]

“Office of the Trustee” means the principal corporate trust office of the Trustee in such city as is specified in, or designated pursuant to, the Indenture.

“Outstanding” has the meaning ascribed to such term in the Indenture.

“Owner” has the meaning ascribed to such term in the Indenture.

“Payment Agreement” has the meaning ascribed to such term in the recitals to this Installment Purchase Agreement.

“Payment Dates” means February 25 and August 25 of each year, commencing August 25, 2018.

“**Person**” means an individual, a corporation, a partnership, an association, a limited liability company, a joint stock company, a trust, any unincorporated organization or a government or political subdivision thereof.

“**Pledged Ad Valorem Taxes**” means, for any period, the *ad valorem* property taxes received by the Agency during such period pursuant to Article XIII A of the Constitution of the State and Section 95 *et seq.* of the California Revenue and Taxation Code, excluding any such taxes levied to pay any voter approved general obligation indebtedness of the Agency.

“**Pledged Assessments**” means the components of the assessments levied pursuant to the Assessment Ordinance designated therein as the Spillway component and the Diversion component.

“**Power Purchase Agreement**” means (a) the Renewable Energy Power Purchase Agreement, effective as of April 1, 2014, by and between the Northern California Power Agency and the Monterey County Water Resources Agency, and as it may from time to time be amended or supplemented in accordance with the terms thereof, and (b) any other agreement or contract for the sale of electrical energy generated by the Hydroelectric Facility to, and the purchase of such energy by, a Person, as any such agreement or contract may from time to time be amended or supplemented in accordance with the terms thereof.

“**Project**” means the Salinas River diversion facility and the spillway modifications at Nacimiento Dam to be acquired pursuant hereto described on Exhibit A hereto.

“**Reserve Fund**” means the fund by that name established and held by the Trustee pursuant to the Indenture.

“**Reserve Requirement**” has the meaning ascribed to such term in the Indenture.

“**Revenue Fund**” means the Salinas Valley Water Project Revenue Fund previously established and continuing to be held by the County on behalf of the Agency pursuant to Section 5.02 hereof.

“**Revenues**” means, for any period (a) Pledged Ad Valorem Taxes, (b) Hydroelectric Facility Net Revenues, (c) Pledged Assessments and (d) Annexation Fees received by the Agency.

“**S&P**” means S&P Global Ratings, a Standard & Poor’s Financial Services LLC business, a limited liability company duly organized and existing under and by virtue of the laws of the State of Delaware, and its successors and assigns, except that if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term “S&P” shall be deemed to refer to any other nationally recognized securities rating agency selected by the Authority.

“**State**” means the State of California.

“**Tax Certificate**” means the Tax Certificate executed by the Agency at the time of issuance of the Authority Bonds relating to the requirements of Section 148 of the Code, as

originally executed and as it may from time to time be amended or supplemented in accordance with the terms thereof.

“**Trustee**” means U.S. Bank National Association, acting in its capacity as Trustee under and pursuant to the Indenture, or any successor thereto as Trustee thereunder substituted in its place as provided therein.

“**Written Certificate**” and “**Written Request**” mean, with respect to the Agency, a written certificate or written request, respectively, signed in the name of the Agency by an Authorized Representative of the Agency. Any such certificate or request may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

ARTICLE II REPRESENTATIONS AND WARRANTIES

Section 2.01 Agency Representations and Warranties. The Agency makes the following representations and warranties:

(a) The Agency is a flood control and water agency organized and existing under and by virtue of the laws of the State.

(b) The Agency has full legal right, power and authority to levy the Pledged Assessments and the Pledged Ad Valorem Taxes.

(c) The Agency has full legal right, power and authority to enter into this Installment Purchase Agreement and carry out its obligations hereunder and to carry out and consummate all transactions contemplated by this Installment Purchase Agreement, and the Agency has complied with the provisions of applicable law in all matters relating to such transactions.

(d) By proper action, the Agency has duly authorized the execution, delivery and due performance of this Installment Purchase Agreement and the Payment Agreement.

(e) The execution and delivery of this Installment Purchase Agreement and the Payment Agreement and the consummation of the transactions herein and therein contemplated will not violate, in a manner that would materially adversely affect the Agency’s ability to perform its obligations hereunder, any provision of law, any order of any court or other agency of government, or any indenture, material agreement or other instrument to which the Agency is now a party or by which it or any of its properties or assets is bound, or be in conflict with, result in a breach of or constitute a default (with due notice or the passage of time or both) under any such indenture, agreement or other instrument, which conflict, breach or default would materially adversely affect the Agency’s ability to perform its obligations hereunder or under the Payment Agreement, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of the Agency which lien, charge or encumbrance would materially adversely affect the Agency’s ability to perform its obligations hereunder or under the Payment Agreement.

(f) The Agency has determined that it is necessary and proper for Agency uses and purposes within the terms of applicable law that the Agency acquire the Project in the manner provided for in this Installment Purchase Agreement, in order to provide essential services and facilities to the persons residing within the boundaries the Agency.

Section 2.02 Authority Representations and Warranties. The Authority makes the following representations and warranties:

(a) The Authority is a joint exercise of powers authority organized and existing under the laws of the State.

(b) The Authority has full legal right, power and authority to enter into this Installment Purchase Agreement and to carry out and consummate all transactions contemplated by this Installment Purchase Agreement, and the Authority has complied with the provisions of applicable law in all matters relating to such transactions.

(c) By proper action, the Authority has duly authorized the execution, delivery and due performance of this Installment Purchase Agreement.

(d) The execution and delivery of this Installment Purchase Agreement and the consummation of the transactions herein contemplated will not violate any provision of law, any order of any court or other agency of government, or any indenture, material agreement or other instrument to which the Authority is now a party or by which it or any of its properties or assets is bound, or be in conflict with, result in a breach of or constitute a default (with due notice or the passage of time or both) under any such indenture, agreement or other instrument, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of the Authority.

ARTICLE III

PURCHASE OF THE PROJECT BY THE AUTHORITY; PAYMENT OF PURCHASE PRICE

Section 3.01 Acquisition of the Project. The Agency represents and warrants that it is the sole and exclusive owner of the Project. The Authority hereby purchases from the Agency, and the Agency hereby sells to the Authority, a portion of the Project equal to \$_____ as described in Exhibit A hereto in accordance with the provisions of this Installment Purchase Agreement. All right, title and interest in and to such portion of the Project shall immediately vest in the Authority on the Closing Date without further action on the part of the Authority or the Agency.

Section 3.02 Payment of Purchase Price. On the Closing Date, the Authority shall pay to the Agency, as the purchase price of the applicable portion of the Project specified in Section 3.01, the amount of \$_____, which amount shall be paid from the proceeds of the Authority Bonds.

ARTICLE IV
PURCHASE OF THE PROJECT BY THE AGENCY; INTERCEPT PAYMENTS;
INSTALLMENT PAYMENTS

Section 4.01 Purchase and Sale of Project. The Agency hereby purchases from the Authority, and the Authority hereby sells to the Agency, for the Installment Payments, the Project in accordance with the provisions of this Installment Purchase Agreement. All right, title and interest in the Project shall immediately vest in the Agency on the Closing Date without further action on the part of the Agency or the Authority.

Section 4.02 Payments under Payment Agreement. The Agency shall cause to be paid to the Trustee the payment at the times and in the amounts provided in the Payment Agreement.

Section 4.03 Installment Payments. The Agency shall pay to the Authority the Installment Payments at the times and in the amounts provided in this Installment Purchase Agreement. The Installment Payments shall be paid from Revenues. The amount of the Installment Payment payable by the Agency on each Payment Date shall be equal to the interest on, or the principal of (including mandatory sinking fund redemptions) and interest on, as applicable, the Authority Bonds due on the immediately following Interest Payment Date, less amounts previously transferred pursuant to the Payment Agreement for the Installment Payment due and payable on such Payment Date. Pursuant to the Indenture, the Installment Payments and the payments under the Payment Agreement are to be applied to the payment of the principal of and interest on the Authority Bonds, and the Installment Payments shall be made in amounts that are sufficient, but no more than sufficient, to pay the scheduled payments of principal of (including mandatory sinking fund redemptions) and interest on the Outstanding Authority Bonds, less amounts previously transferred pursuant to the Payment Agreement for the Installment Payment due and payable on such Payment Date. If and to the extent that, on any Payment Date, there are amounts on deposit in the Debt Service Fund, said amounts shall be credited against the Installment Payment due on such date. Each Installment Payment shall be paid to the Trustee, as assignee of the Authority, no later than the applicable Payment Date, in lawful money of the United States of America, in funds which will be available not later than the Business Day following payment. The Agency shall cause the Auditor Controller to make each payment under the Payment Agreement in accordance with the terms of the Payment Agreement.

Section 4.04 Late Payments. In the event the Agency fails to make any of the payments required to be made by it hereunder, such payment shall continue as an obligation of the Agency until such amount shall have been fully paid and, to the extent permitted by law, the Agency agrees to pay the same with interest accruing thereon at a rate per annum equal to the highest rate of interest on the Authority Bonds.

Section 4.05 Reserve Fund Payments. The Agency shall pay, or cause to be paid, to the Trustee such amounts as are required to make available in the Reserve Fund an amount equal to the Reserve Requirement; provided, however, that such payments shall be payable solely from Revenues. In the event that the Trustee notifies the Agency that the amount on deposit in the Reserve Fund is less than the Reserve Requirement, including after the payment of any amounts under the Payment Agreement, the Agency shall, as provided in Section 5.02(b) hereof, on or before the Business Day immediately preceding the Payment Date following such notice, withdraw from the Revenue Fund and transfer to the Trustee, for deposit in the Reserve Fund, the amount,

if any, necessary to cause the amount on deposit in the Reserve Fund to be equal to the Reserve Requirement.

Section 4.06 Obligation Absolute. The obligation of the Agency to make the Installment Payments and other payments required to be made by it under this Article, from Revenues as described herein, is absolute and unconditional, and until such time as the Installment Payments and such other payments shall have been paid in full (or all agreements, covenants and other obligations of the Agency hereunder shall have ceased, terminated and become void and been discharged and satisfied as provided in Section 7.03 hereof), the Agency shall not discontinue or suspend any Installment Payments or other payments required to be made by it hereunder when due, whether or not the Project or any part thereof is operating or operable or has been completed, or its use is suspended, interfered with, reduced or curtailed or terminated in whole or in part, and such Installment Payments and other payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement for any cause whatsoever.

ARTICLE V PLEDGE; REVENUE FUND

Section 5.01 Pledge. Subject only to the provisions of this Installment Purchase Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein, all of the Revenues and any other amounts held in the Revenue Fund or transferred in accordance with the terms of the Payment Agreement, are hereby pledged to secure the payment of the Installment Payments in accordance with the provisions of this Installment Purchase Agreement and the Payment Agreement. Said pledge shall constitute a first lien on such funds.

Section 5.02 Revenue Fund. (a) The Agency previously established and continues to hold and maintain within its treasury a fund denominated the "Salinas Valley Water Project Revenue Fund" (the "Revenue Fund"). Subject to the provisions of subsection (c), below, all Revenues received by the Agency shall be deposited as and when received in the Revenue Fund.

(b) On or before the Business Day immediately preceding each Payment Date, the Agency shall withdraw from the Revenue Fund and transfer to the Trustee the amounts set forth below in the following order of priority:

(i) The Agency shall transfer to the Trustee, for deposit in the Debt Service Fund, an amount equal to the Installment Payment due and payable on such Payment Date, less amounts previously transferred pursuant to the Payment Agreement for the Installment Payment due and payable on such Payment Date.

(ii) The Agency shall transfer to the Trustee, for deposit in the Reserve Fund, the amount, if any, necessary to cause the amount on deposit in the Reserve Fund to be equal to the Reserve Requirement, less amounts previously transferred to the Reserve Fund pursuant to the Payment Agreement.

(iii) [The Agency shall transfer to the Trustee, for transfer to the Insurer, an amount necessary to reimburse the Insurer for draws under the Policy.]

(c) In each Bond Year, on the Business Day immediately following the date in such Bond Year on which the amount previously transferred by the Agency to the Trustee pursuant to subsection (b) above, and any amounts previously transferred by the Agency to the Trustee pursuant to the Payment Agreement, is at least equal to the sum of (i) the aggregate amount of the Installment Payments payable in such Bond Year, plus (ii) the amount, if any, necessary to cause the amount on deposit in the Reserve Fund to be equal to the Reserve Requirement (A) the Agency shall withdraw from the Revenue Fund and transfer to such funds or accounts of the Agency as the Agency shall determine, any amount then remaining on deposit in the Revenue Fund, and (B) from and including such date to and including the September 1 that constitutes the last day of such Bond Year, the Agency shall not be required to deposit Revenues received by the Agency in the Revenue Fund.

(d) Moneys in the Revenue Fund may be invested by the Agency in Permitted Investments. The obligations in which moneys in the Revenue Fund are invested shall mature prior to the date on which such moneys are estimated to be required to be paid out hereunder. Any interest, income or profits from the investment of moneys in the Revenue Fund shall be retained therein.

ARTICLE VI COVENANTS

Section 6.01 Compliance with Installment Purchase Agreement. The Agency shall punctually pay the Installment Payments and other payments required to be made by it hereunder in strict conformity with the terms hereof, and will faithfully observe and perform all the agreements, conditions, covenants and terms contained herein required to be observed and performed by it, and shall not terminate this Installment Purchase Agreement for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Project, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either or any failure of the Authority to observe or perform any agreement, condition, covenant or term contained herein required to be observed and performed by it, whether express or implied, or any duty, liability or obligation arising out of or connected herewith or the insolvency, or deemed insolvency, or bankruptcy or liquidation of the Authority or any force majeure, including acts of God, tempest, storm, earthquake, war, rebellion, riot, civil disorder, acts of public enemies, blockade or embargo, strikes, industrial disputes, lock outs, lack of transportation facilities, fire, explosion, or acts or regulations of governmental authorities.

Section 6.02 Protection of Security and Rights of the Authority. The Agency shall preserve and protect the security hereof and the rights of the Authority to the Installment Payments and other payments required to be made by the Agency hereunder and shall warrant and defend such rights against all claims and demands of all Persons.

Section 6.03 Additional Obligations. The Agency shall not incur any obligations payable from Revenues on a basis senior to the payment of the Installment Payments and payments to replenish the Reserve Fund as provided herein. The Agency may from time to time incur obligations payable from Revenues on a basis subordinate to the payment therefrom of the Installment Payments and payments to replenish the Reserve Fund as provided herein.

Section 6.04 Pledged Assessments; Assessment Ordinance. (a) The Agency shall, in accordance with the Act and the Assessment Ordinance, levy the annual Pledged Assessments and collect and enforce, or cause the collection and enforcement of, such Pledged Assessments (including by the Auditor-Controller pursuant to the Payment Agreement). Prior to August 1 of each year, the Agency shall ascertain from the Monterey County Assessor the relevant parcels on which the Pledged Assessments are to be levied, taking into account any parcel splits during the preceding and then current year. The Agency shall effect the levy of the Pledged Assessments each Fiscal Year in accordance with the Assessment Ordinance, by each August 10, or otherwise such that the computation of the levy is complete before the final date on which the Monterey County Auditor will accept the transmission of the Assessment amounts for inclusion on the next real property tax roll. Upon the completion of the computation of the amounts of the levy, the Agency shall prepare or cause to be prepared, and shall transmit to the Monterey County Auditor, such data as said Auditor requires to include the levy of the Pledged Assessments on the next real property tax roll.

(b) Subject to the limitations in the Assessment Ordinance as to the purposes for which the Pledged Assessments may be levied, the Agency shall levy Pledged Assessments annually at the maximum amount specified in the Assessment Ordinance, including the maximum allowable cost-of-living adjustments.

(c) So long as the Authority Bonds remain outstanding, the Agency shall not rescind the Assessment Ordinance and shall not amend or supplement the Assessment Ordinance so as to reduce the amount of the Pledged Assessments levied thereunder or to reduce the amount of land subject thereto, and the Agency shall not amend or supplement the Assessment Ordinance for any other purpose unless the Board of Supervisors determines by resolution that such amendment or supplement would not materially adversely affect the ability of the Agency to pay the Installment Payments or other payments required to be made by it hereunder, or to perform and observe all of its covenants hereunder.

Section 6.05 Hydroelectric Facility Revenues Power Purchase Agreement. (a) The Agency shall receive and collect the Hydroelectric Facility Revenues as provided herein and shall apply the Hydroelectric Facility Net Revenues as provided herein.

(b) The Agency shall comply with, keep, observe and perform all agreements, conditions, covenants and terms, express or implied, required to be performed by it contained in a Power Purchase Agreement and all other contracts affecting or involving the Hydroelectric Facility Revenues to the extent that the Agency is a party thereto. The Agency shall cause each Person that is party to a Power Purchase Agreement to comply with, keep, observe and perform all agreements, conditions, covenants and terms, express or implied, required to be performed by such Person in such Power Purchase Agreement.

(c) The Agency shall not rescind or terminate, or consent to the rescission or termination of, a Power Purchase Agreement, enter into an amendment or supplement to a Power Purchase Agreement, or consent to any such amendment or supplement, or waive any material term of a Power Purchase Agreement unless the Board of Supervisors determines by resolution that such rescission, termination, amendment, supplement or waiver would not materially

adversely affect the ability of the Agency to pay the Installment Payments or other payments required to be made by it hereunder, or to perform and observe all of its covenants hereunder.

Section 6.06 Covenant to Maintain Payment Agreement. (a) The Agency shall comply with, keep, observe and perform all agreements, conditions, covenants and terms, express or implied, required to be performed by it contained in the Payment Agreement and all other contracts affecting or involving the Pledged Ad Valorem Taxes and the Pledged Assessments to the extent that the Agency is a party thereto.

(b) The Agency shall not rescind or terminate, or consent to the rescission or termination of, the Payment Agreement, enter into an amendment or supplement to the Payment Agreement, or consent to any such amendment or supplement, or waive any material term of the Payment Agreement unless the Board of Supervisors determines by resolution that such rescission, termination, amendment, supplement or waiver would not materially adversely affect the ability of the Auditor-Controller to pay the payments required to be made by it under the Payment Agreement, or to perform and observe all of its covenants thereunder.

Section 6.07 Pledged Ad Valorem Taxes. The Agency shall cause the Auditor-Controller to receive and collect the Pledged Ad Valorem Taxes and apply the Pledged Ad Valorem Taxes as provided in the Payment Agreement.

Section 6.08 Annexation Fees. The Agency shall collect and enforce, or cause the collection and enforcement of, the Annexation Fees, and shall not terminate the collection or enforcement of the Annexation Fees prior to the maturity of the Authority Bonds if such termination results in a reduction or withdrawal of any rating on the Authority Bonds.

Section 6.09 Against Encumbrances. The Agency shall not encumber, pledge or place any charge upon the Revenues that would impair the Agency's ability to comply with its obligations under this Installment Purchase Agreement.

Section 6.10 Payment of Claims. The Agency shall pay and discharge any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien on Revenues or any part thereof or on any funds in the hands of the Agency or the Trustee which might impair the security of the Installment Payments, but the Agency shall not be required to pay such claims if the validity thereof shall be contested in good faith (so long as such nonpayment will not materially adversely affect the Agency's ability to perform its obligations hereunder).

Section 6.11 Hydroelectric Facility. (a) The Agency shall not sell, lease or otherwise dispose of the Hydroelectric Facility or any part thereof essential to the proper operation of the Hydroelectric Facility or to the maintenance of Hydroelectric Facility Revenues; provided, however, that any real or personal property which has become non-operative or which is not needed for the efficient and proper operation of the Hydroelectric Facility, or any material or equipment which has become worn out, may be sold if such sale will not materially reduce Hydroelectric Facility Revenues.

(b) The Agency shall maintain and preserve the Hydroelectric Facility in good repair and working order at all times and will operate the Hydroelectric Facility in an efficient and economical manner and will pay all operation and maintenance costs of the Hydroelectric Facility

as they become due and payable, but the Agency shall not be required to pay such operation and maintenance costs if the validity thereof shall be contested in good faith (so long as such nonpayment will not materially adversely affect the Agency's ability to perform its obligations hereunder).

(c) The Agency shall procure and maintain or cause to be procured and maintained casualty insurance on the Hydroelectric Facility with responsible insurers, or provide self insurance (which may be provided in the form of risk-sharing pools), in such amounts and against such risks (including accident to or destruction of the Hydroelectric Facility) as are usually covered in connection with hydroelectric generation facilities similar to the Hydroelectric Facility. In the event of any damage to or destruction of the Hydroelectric Facility caused by the perils covered by such insurance or self insurance, the net proceeds thereof shall be applied to the reconstruction, repair or replacement of the damaged or destroyed portion of the Hydroelectric Facility. The Agency shall begin such reconstruction, repair or replacement promptly after such damage or destruction shall occur, and shall continue and properly complete such reconstruction, repair or replacement as expeditiously as possible, and shall pay out of such net proceeds all costs and expenses in connection with such reconstruction, repair or replacement so that the same shall be completed and the Hydroelectric Facility shall be free and clear of all claims and liens, unless the Agency determines that such property or facility is not necessary to the efficient or proper operation of the Hydroelectric Facility and that the failure to reconstruct, repair or replace such portion of the Hydroelectric Facility will not have a material adverse effect on the amount of Hydroelectric Facility Net Revenues.

Section 6.12 Insurance. The Agency shall maintain insurance with respect to its property covering risks and in amounts as is customarily maintained by organizations of similar size and conducting similar operations as the Agency. The Agency may, but is not required to, maintain earthquake or flood insurance.

Section 6.13 [Consolidation or Merger]. The Agency shall not merge with or consolidate with another entity unless the Insurer receives a certificate of an authorized officer of such entity stating that (a) no Event of Default shall have occurred and be continuing immediately after giving effect to such transaction, (b) the successor or transferee shall possess such permits, licenses and accreditations to operate such property as may be required if it is to operate such property, (c) such entity could incur one dollar of additional long-term debt immediately after giving effect to such transaction without violating the terms of any contract to which it is a party, (d) the entity has agreed to assume all outstanding obligations of the Agency and (e) the Board of Supervisors determines by resolution that such merger or consolidation would not materially adversely affect the ability of the Agency to pay the Installment Payments or other payments required to be made by it hereunder, or to perform and observe all of its covenants hereunder.]

Section 6.14 Accounting Records. The Agency shall keep appropriate accounting records in which complete and correct entries shall be made of all transactions relating to the Revenues, which records shall be available for inspection by the Authority and the Trustee at reasonable hours and under reasonable conditions.

Section 6.15 Tax Covenants. The Agency agrees that it not take any action, or fail to take any action, if such action or failure to take such action would adversely affect the exclusion from

gross income of interest on the Authority Bonds under Section 103 of the Code. Without limiting the generality of the foregoing, the Agency agrees that it will comply with the requirements of the Tax Certificate, which is incorporated herein as if fully set forth herein. This covenant shall survive payment in full or defeasance of the Authority Bonds.

Section 6.16 Administrative Costs. The Agency shall pay each charge constituting an Administrative Cost. Administrative Costs shall be paid by the Agency directly to the Person or Persons to whom such amounts shall be payable. The Agency shall pay all such amounts when due or at such later time as such amounts may be paid without penalty or, in any other case, within 30 days after notice in writing from the Trustee to the Agency stating the amount of Administrative Costs then due and payable and the purpose thereof.

Section 6.17 Continuing Disclosure. The Agency shall provide the Authority with such financial and operating data and other information with respect to the Agency, at such times, as is necessary or appropriate for the Authority to comply with its undertakings under the Continuing Disclosure Agreement.

Section 6.18 Indemnification. To the extent permitted by law, the Agency shall indemnify and hold the Authority and the Trustee, as assignee of the Authority, and their officers and members harmless against any and all liabilities which might arise out of or are related to the Project or any portion thereof and the Agency shall defend the Authority and the Trustee, as assignee of the Authority, and their officers and members in any action arising out of or related to the Project or any portion thereof.

Section 6.19 Further Assurances. The Agency shall adopt, deliver, execute and make any and all further assurances, instruments and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof and for the better assuring and confirming unto the Authority of the rights and benefits provided to it herein.

ARTICLE VII RIGHT TO REDEEM; DISCHARGE OF OBLIGATIONS

Section 7.01 Right to Redeem. On or after September 1, 20___, the Agency shall have the right to cause Authority Bonds maturing on or after September 1, 20___ to be redeemed in accordance with Section 3.01 of the Indenture, by providing the Trustee with funds sufficient for such purpose (which funds may be derived by the Agency from any source) and giving notice as provided in Section 7.02 hereof.

Section 7.02 Notice. Before exercising its right to cause Authority Bonds to be redeemed pursuant to Section 7.01 hereof, the Agency shall give written notice to the Trustee of its intention to exercise such right, specifying the date on which such redemption shall be made, which date shall be not less than 60 nor more than 75 days from the date such notice is given, and specifying the amounts and maturities of Authority Bonds to be redeemed.

Section 7.03 Discharge of Obligations. If the Authority shall pay or cause to be paid or there shall otherwise be paid to the Owners of all Outstanding Authority Bonds the interest thereon and the principal thereof and the premiums, if any, thereon or if all Outstanding Authority Bonds shall be deemed to have been paid at the times and in the manner stipulated in the Indenture, then

all agreements, covenants and other obligations of the Agency hereunder shall thereupon cease, terminate and become void and be discharged and satisfied.

ARTICLE VIII
EVENTS OF DEFAULT AND REMEDIES OF THE AUTHORITY

Section 8.01 Events of Default. The following shall be Events of Default under this Installment Purchase Agreement, and Event of Default shall mean any one or more of the following events:

(a) if default shall be made by the Agency in the due and punctual payment of any Installment Payment as the same shall become due and payable;

(b) If default shall be made by the Agency in the observance of any of the other covenants, agreements or conditions on its part in this Installment Purchase Agreement contained, and such default shall have continued for a period of 30 days after written notice thereof, specifying such default and requiring the same to be remedied, shall have been given to the Agency by the Authority, or to the Agency and the Trustee by the Owners of not less than 5% in aggregate principal amount of Bonds Outstanding; provided, however, that if in the reasonable opinion of the Agency the failure stated in the notice can be corrected, but not within such 30 day period, such failure shall not constitute an Event of Default if corrective action is instituted by the Agency within such 30 day period and the Agency shall thereafter diligently and in good faith cure such failure in a reasonable period of time; or

(c) if the Agency shall file a petition or answer seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if a court of competent jurisdiction shall approve a petition filed with or without the consent of the Agency seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the Agency or of the whole or any substantial part of its property.

Section 8.02 Remedies on Default. Upon the occurrence of an Event of Default, the Authority shall have the right:

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

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

(c) by suit in equity require the Agency and its board members, officers and employees to account as the trustee of an express trust.

Section 8.03 Application of Revenues After Default. If an Event of Default shall occur and be continuing, all Revenues and any other funds thereafter received by the Authority under any of the provisions of this Installment Purchase Agreement shall be applied as follows and in the following order:

(a) to the payment of the costs and expenses of the Authority if any, in carrying out the provisions of this Article;

(b) to the payment of the entire amount of unpaid Installment Payments, with interest on the overdue installments at the rate or rates of interest applicable thereto, in accordance with the terms hereof; and

(c) to such other liabilities of the Agency as are then payable.

Section 8.04 Non-Waiver. Nothing in this Article or in any other provision hereof shall affect or impair the obligation of the Agency, which is absolute and unconditional, to pay the Installment Payments to the Authority at the respective due dates from Revenues and the other funds herein committed for such payment, or shall affect or impair the right of the Authority, which is also absolute and unconditional, to institute suit to enforce such payment by virtue of the contract embodied herein.

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

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

Section 8.05 Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Authority is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise and may be exercised without exhausting and without regard to any other remedy conferred by law.

ARTICLE IX INSURANCE POLICY PROVISIONS

[To come, if applicable]

ARTICLE X
MISCELLANEOUS

Section 10.01 Liability of Agency Limited. Notwithstanding anything contained herein, the Agency shall not be required to advance any moneys derived from any source of income other than Revenues for the payment of the Installment Payments and other payments required to be made by it hereunder, or for the performance of any agreements or covenants required to be performed by it contained herein. The Agency may, however, but in no event shall be obligated to, advance moneys for any such purpose so long as such moneys are derived from a source legally available for such purpose and may be legally used by the Agency for such purpose.

The obligation of the Agency to make the Installment Payments and other payments required to be made by it hereunder, and to cause to be paid by the Auditor-Controller the payments on behalf of the Agency pursuant to the Payment Agreement, shall be a special obligation of the Agency payable, in the manner provided herein and in the Payment Agreement, solely from the Revenues and the other funds pledged therefor hereunder and under the Payment Agreement. Neither the faith and credit nor the taxing power of the Agency or the State, or any political subdivision thereof, except for the Revenues, is pledged to the payment of the Installment Payments or other payments required to be made by the Agency hereunder or the payments to be paid by the Auditor-Controller on behalf of the Agency pursuant to the Payment Agreement.

Section 10.02 Benefits of Installment Purchase Agreement Limited to Parties. Nothing contained herein, expressed or implied, is intended to give to any Person other than the Agency, the Authority or the assigns of the Authority any right, remedy or claim under or pursuant hereto, and any agreement or covenant required herein to be performed by or on behalf of the Agency or the Authority shall be for the sole and exclusive benefit of the Agency, the Authority and the assigns of the Authority.

Section 10.03 [Third-Party Beneficiary. To the extent that this Installment Purchase Agreement confers upon or gives or grants to the Insurer any right, remedy or claim under or by reason of this Installment Purchase Agreement, the Insurer is explicitly recognized as being a third party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.]

Section 10.04 Amendments. (a) This Installment Purchase Agreement and the rights and obligations of the Agency and the Authority hereunder may be modified or amended from time to time and at any time by an amendment hereto, which the Agency and the Authority may enter into with the written consent of the Owners of at least a majority in aggregate principal amount of Authority Bonds Outstanding pursuant to the Indenture, provided that no such amendment shall (i) extend the payment date of any Installment Payment or reduce the amount of any Installment Payment without the prior written consent of the Owner of each Authority Bond affected thereby, or (ii) reduce the percentage of Authority Bonds the consent of the Owners of which is required for the execution of any amendment of this Installment Purchase Agreement.

(b) This Installment Purchase Agreement and the rights and obligations of the Agency and the Authority hereunder may also be modified or amended from time to time and at any time

by an amendment hereto which the Agency and the Authority may enter into without the written consents of any Owners, but only for any one or more of the following purposes:

(i) to add to the covenants and agreements of the Agency contained in this Installment Purchase Agreement other covenants and agreements thereafter to be observed or to surrender any right or power herein reserved to or conferred upon the Agency;

(ii) to make such provisions for the purpose of curing any ambiguity, inconsistency or omission, or of curing or correcting any defective provision contained in this Installment Purchase Agreement; and

(iii) in any other respect whatsoever as the Authority and the Agency may deem necessary or desirable, provided that such amendment does not materially adversely affect the interests of the Owners of the Authority Bonds.

Section 10.05 Successor Is Deemed Included in all References to Predecessor. Whenever either the Agency or the Authority is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the Agency or the Authority, and all agreements and covenants required hereby to be performed by or on behalf of the Agency or the Authority shall bind and inure to the benefit of the respective successors thereof whether so expressed or not.

Section 10.06 Waiver of Personal Liability. No official, officer or employee of the Agency shall be individually or personally liable for the payment of the Installment Payments or other payments required to be made by the Agency hereunder, but nothing contained herein shall relieve any official, officer or employee of any Agency from the performance of any official duty provided by any applicable provisions, of law or hereby.

Section 10.07 Article and Section Headings; Gender and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof, and words of any gender shall be deemed and construed to include all genders. All references herein to "Articles," "Sections" and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words "hereby," "herein," "hereof," "hereto," "herewith" and other words of similar import refer to this Installment Purchase Agreement as a whole and not to any particular Article, Section, subdivision or clause hereof.

Section 10.08 Partial Invalidity. If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of any Agency or the Authority shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof.

Section 10.09 Assignment. This Installment Purchase Agreement and the right, title and interest of the Authority hereunder may be assigned by the Authority to the Trustee, as a whole or in part, without the necessity of obtaining the prior consent of the Agency.

Section 10.10 Law Governing. This Installment Purchase Agreement shall be construed and governed in accordance with the laws of the State.

Section 10.11 Notices. Any notice, statement, demand, consent, approval, authorization, offer, designation, request or other communication to be given hereunder shall be given to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other parties in writing from time to time, namely:

If to the Agency:

Monterey County Water Resources Agency
1441 Schilling Pl., North Bldg.
Salinas, California 93901
Attention: General Manager

If to the Authority:

Monterey County Financing Authority
c/o County of Monterey
168 West Alisal Street
Salinas, California 93901
Attention: Auditor-Controller

with a copy to:

Monterey County Water Resources Agency
1441 Schilling Pl., North Bldg.
Salinas, California 93901
Attention: General Manager

If to the Insurer:

[To come, if applicable]

Each such notice, statement, demand, consent, approval, authorization, offer, designation, request or other communication hereunder shall be deemed delivered to the party to whom it is addressed (a) if given by courier or delivery service or if personally served or delivered, upon delivery, (b) if given by telecopier, upon the sender's receipt of an appropriate answerback or other written acknowledgment, (c) if given by registered or certified mail, return receipt requested, deposited with the United States mail postage prepaid, 72 hours after such notice is deposited with the United States mail, or (d) if given by any other means, upon delivery at the address specified in this Section.

Section 10.12 Effective Date. This Installment Purchase Agreement shall become effective upon its execution and delivery, and shall terminate when all Installment Payments and other payments required to be made hereunder shall have been fully paid or when there are no longer any Authority Bonds Outstanding.

Section 10.13 Execution in Counterparts. This Installment Purchase Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed and attested this Installment Purchase Agreement as of the day and year first written above.

**MONTEREY COUNTY WATER
RESOURCES AGENCY**

By: _____
General Manager

**MONTEREY COUNTY FINANCING
AUTHORITY**

By: _____
Executive Director

EXHIBIT A

DESCRIPTION OF PROJECT

Salinas River Diversion Facility

The Salinas River diversion facility project consists of the Salinas River Diversion Facility (the “Diversion Facility”) which allows the diversion of river water released from the San Antonio and Nacimiento reservoirs to the Castroville Seawater Intrusion Project (“CSIP”) distribution pipeline where it is blended with recycled water produced at the Salinas Valley Reclamation Plant, a tertiary treatment plant for wastewater, and delivered to the CSIP service area for agricultural irrigation. Diverted river water supplements the use of the CSIP project water and replaces existing groundwater pumping in the CSIP service area. The Diversion Facility includes an inflatable dam designed to operate from April to November and forms a shallow impoundment of water upstream of the facility when the Nacimiento Dam is operational. This impoundment may extend up to two miles upstream and divert up to 12,800 acre-feet of water per year.

The Diversion Facility is constructed within the Salinas River channel, approximately two miles upstream of Highway 1 near Moro Cojo at the approximate location of the Salinas River crossing of the CSIP distribution pipeline.

The diversion of water from the Salinas River to the CSIP distribution pipeline includes (i) a diversion dam structure that incorporates an Obermeyer Spillway gate approximately 230 feet in length and whose height is controlled with an inflatable air bladder and whose foundation is constructed of reinforced concrete with vinyl sheet piles (instead of steel that would deteriorate by corrosion) driven at the upstream and downstream ends; (ii) a fish screen diversion and fish ladder that is designed as a single hydraulic unit; and (iii) the Salinas River Pump Station and CSIP Interconnection Pipeline.

Spillway Modifications at Nacimiento Dam

The Nacimiento Dam spillway modifications project modified the prior spillway by lowering the spillway’s crest and installing an inflatable rubber dam. The modification to Nacimiento Reservoir included lowering the concrete ogee spillway eight feet. Lowering the crest required the excavation and removal of more than 1,000 cubic yards of concrete. The spillway crest was then prepared and finished with concrete to accommodate the installation of an inflatable rubber dam. The sidewalls of the downstream spillway chute were raised to accommodate the increased flows that could pass through the modified spillway.

The rubber dam deflates to pass the PMF, which increases the capacity of the spillway. Once the peak of the event hydrograph passed the rubber dam was inflated to allow the reservoir water levels to return to the full storage capacity of Nacimiento Reservoir. Implementation of this component did not increase the prior maximum lake level elevation of 800 feet (i.e., maximum inundation area surrounding the lake).

The custom-made inflatable rubber dam was anchored to a new spillway concrete foundation. Two rubber dam sections, each approximately 75 feet in length, were installed across the 150-foot spillway crest. Compressed air raised the inflatable dams using an air pipe inflation

system consisting of an air supply and exhaust pipe, upstream water level sensor pipe, and inner pressure sensor pipe. Full inflation of the rubber dam takes approximately 20-40 minutes, while deflation is rapid. Inflation and deflation can be accomplished automatically and by remote or local control. Automatic safety devices were installed to protect the dam from damage should any of the other control mechanisms fail.