

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALIFORNIA CITY APPROVING THE PREPARATION OF THE CALIFORNIA CITY FINANCING AUTHORITY WATER SYSTEM LOAN IN APPROXIMATELY THE AMOUNT OF FIVE MILLION DOLLARS (\$5,000,000) AND APPROVING CERTAIN DOCUMENTS AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION THEREWITH

WHEREAS, the City of California City (the "City") is a municipal corporation, organized and existing under the laws of the State of California; and

WHEREAS, the California City Financing Authority (the "Authority") and the City desire to enter into that certain Property Lease dated as of May 1, 2006 by and between the City and the Authority (the "Property Lease"), the form of which has been presented to the City Council of the City at the meeting at which this Resolution has been adopted, pursuant to which the City will agree to lease the Property (as defined in the Property Lease) to the Authority; and

WHEREAS, the Authority and the City desire to enter into that certain Lease Agreement dated as of May 1, 2006 by and between the City and the Authority (the "Lease Agreement"), the form of which has been presented to the City Council of the City at the meeting at which this Resolution has been adopted, pursuant to which the City will agree to lease the Project (as defined in the Lease Agreement) from the Authority and to pay certain Lease Payments (as defined in the Lease Agreement) in connection therewith; and

WHEREAS, the Lease Payments will be assigned by the Authority and will be pledged to the registered owners of the California City Financing Authority Water System Loan (the "Loan") by and among the United States of America, Department of Agriculture, Rural Utilities Service (the "U.S.D.A."), the City and the Authority, the form of which has been presented to the City Council of the City at the meeting at which this Resolution has been adopted; and

WHEREAS, the proceeds of the Loan will be paid to the City and used to reimbursement of the City for costs incurred in connection with the expansion of the City's Water Facilities; and

WHEREAS, the City and the Authority possess all legal authority to and desire to enter into the Property Lease, the Lease Agreement, the Assignment Agreement and the Loan Resolution; and

WHEREAS, the Authority and City have determined that it would be in the best interests of the Authority, the City and citizens of the community to authorize the Loan in an aggregate principal amount of approximately Five Million Dollars (\$5,000,000), which Loan shall be repaid from the Lease Payments to be made pursuant to the Lease Agreement;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALIFORNIA CITY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

1. That the foregoing recitals are true, correct, and adopted.

2. That the City hereby approves and consents to the preparation and sale of the Loan in an approximate aggregate principal amount of Five Million Dollars (\$5,000,000) in accordance with the terms and provisions of the Lease Agreement. The purposes for which the proceeds of the Loan shall be expended are to pay the cost of reimbursing the City for the costs incurred in connection with the expansion of the City's Water Treatment Plant, to fund a reserve fund and to pay the costs of the sale of the Loan.

3. That the City hereby appoints Stradling Yocca Carlson & Rauth, a Professional Corporation, to act as Bond Counsel with respect to the Loan.

4. That the proposed forms of the Property Lease, the Lease Agreement, the Assignment Agreement and the Loan Resolution are hereby approved, substantially in the form presented at this meeting.

5. That the Mayor of the City (the "Mayor") and the City Manager or his designee, acting together or separately, are hereby authorized and directed for and in the name of the City to execute the Property Lease, Lease Agreement, the Assignment Agreement and the Loan Resolution, in substantially the forms hereby approved, with such additions thereto and changes therein as are recommended or approved by the City Attorney of the City and approved by such officers, such approval to be conclusively evidenced by the execution and delivery thereof.

6. That except as otherwise defined herein, capitalized terms used in this Resolution shall have the meanings given them in the Lease Agreement.

7. That the Mayor, the City Manager and all other officers and employees of the City are hereby authorized and directed to execute all other documents and take all other actions on behalf of the City that may be necessary or advisable to carry out the transactions contemplated by the Property Lease, the Lease Agreement, the Assignment Agreement and the Loan Resolution.

8. That this Resolution shall take effect upon adoption.

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council of the City of California City held on this ____ day of _____, 2006 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

(SEAL)

ATTEST:

City Clerk



Recording Requested By and)
When Recorded Mail To:)
)
Stradling Yocca Carlson & Rauth)
660 Newport Center Drive, Suite 1600)
Newport Beach, California 92660)
Attention: David R. McEwen, Esq.)
)

This document is recorded for the benefit of the City of California City, and the recording is fee-exempt under Section 27383 of the Government Code.

PROPERTY LEASE

by and between

CITY OF CALIFORNIA CITY

and

CALIFORNIA CITY FINANCING AUTHORITY

Dated as of May 1, 2006

PROPERTY LEASE

This Property Lease is dated as of May 1, 2006, by and between the CITY OF CALIFORNIA CITY, a municipal corporation, duly organized and existing under and by virtue of the laws of the State, as lessor (the "City"), and the CALIFORNIA CITY FINANCING AUTHORITY, joint powers authority, duly organized and existing under the laws of the State, as lessee (the "Authority").

WITNESSETH:

WHEREAS, the City is the owner of certain real property (including all existing and future improvements thereon) described in Exhibit A hereto as such Exhibit A may be amended and supplemented from time to time (the "Property"), and desires to leave the Property to the Authority; and

WHEREAS, the City intends to lease the Property back from the Authority, pursuant to the terms of that certain Lease Agreement, dated the date hereof, between the Authority and the City (the "Lease Agreement") in order to obtain funds to reimburse City for the cost to acquire and construct certain Water System improvements (the "Project"); and

WHEREAS, by resolution of the City Council of the City, the City has agreed to execute this Property Lease and to deliver it upon performance and compliance by the Authority of all terms or conditions of this contract to be performed concurrently herewith, including without limitation, the Assignment Agreement, dated as of the date hereof (the "Assignment Agreement"), among the Authority, the City and the United States of America Rural Utility Service, Department of Agriculture (the "U.S.");

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other valuable consideration, it is hereby mutually agreed as follows:

Section 1. Definitions. Unless the context otherwise requires, the capitalized terms herein which are not defined herein shall have the meanings specified in the Assignment Agreement or the Lease Agreement.

Section 2. Lease of the Property; Substitution. The City hereby leases to the Authority, and the Authority hereby leases from the City, the Property, on the terms and conditions hereinafter set forth.

The City reserves the right at any time to substitute other real property and improvements for all or a portion of the real property described in Exhibit A hereto, upon compliance with the provisions of Section 3.5 of the Lease Agreement ("Substitution"). In the event of a Substitution, the parties hereto agree to execute the appropriate documents evidencing the termination of the Authority's right hereunder in the prior Property or any portion thereof and its acceptance of an interest in any new Property, such documents to include the replacement of Exhibit A hereto with a new Exhibit A accurately describing the Property following such Substitution. The Authority shall not be entitled to any offset, abatement or reduction in rental hereunder as a result of any Substitution.

Section 3. Term. The term of this Property Lease shall commence as of the Delivery Date for the Loan and shall remain in effect until the earlier of _____ or the day following the date of expiration of the Lease Agreement as provided for by Section 4.2 thereof, unless such term is sooner terminated as hereinafter; provided, however, if the term of the Lease Agreement is extended pursuant to Section 4.3 of the Lease Agreement, the term of this Property Lease shall also be extended, except that the term of this Property Lease shall in no event extend beyond _____.

Section 4. Rental. The Authority, or any assignee or successor in interest of the Authority under this Property Lease, shall pay upon execution and delivery of this Property Lease to the City as and for rental hereunder, the sum of \$1.00. As additional consideration for the leasing of the Property to it, the Authority shall execute and deliver the Lease Agreement and the Assignment Agreement and perform its obligations thereunder. The Authority hereby waives any right that it may have under the laws of the State of California to receive a rebate of any rent paid hereunder in full or in part in the event there is a substantial interference with the use and right of possession by the Authority or its sublessee of the Property or any portion thereof as a result of material damage, destruction or condemnation.

Section 5. Purpose. The Authority shall lease back the Property to the City pursuant to the Lease Agreement for the purposes described in the Lease Agreement and for such purposes as may be incidental thereto.

Section 6. Representations, Warranties and Covenants. The City represents and warrants that it is the owner in fee of the Property. The Authority covenants that it shall not encumber the Property except for Permitted Encumbrances (as such term is defined in the Lease Agreement).

Section 7. Assignments. The City acknowledges and affirms the assignment by the Authority of its right, title and interest in and to the Property to the U.S., under the terms of the Assignment Agreement between the Authority and the U.S. No other assignment of any rights hereunder shall be permitted without the consent of the City and the U.S.

Section 8. Actions on Termination. The Authority agrees, upon the termination of this Property Lease, to quit and surrender the Property in the same good order and condition as it was in at the time the real property then constituting the Property became subject to this Property Lease, reasonable wear and tear excepted, and agrees that any permanent improvements and structures existing upon the Property at the time of the termination of this Property Lease shall remain thereon and all interest therein shall vest in the City free and clear of any interest of the Authority.

Section 9. Quiet Enjoyment. The Authority at all times during the term of this Property Lease shall peaceably and quietly have, hold and enjoy all of the Property, subject only to Permitted Encumbrances (as such term is defined in the Lease Agreement).

Section 10. Default. In the event the Authority shall be in default in the performance of any obligation on its part to be performed under the terms of this Property Lease, which default continues for 30 days following written notice to and demand for correction thereof by the City, the City may exercise any and all remedies granted by law which do not adversely affect the interests of the Owners of the Bonds, with the prior consent of the U.S.; provided that the City may not terminate this Property Lease and shall exercise only remedies providing for specific performance hereunder.

Section 11. Taxes. The City covenants and agrees to pay any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Property.

Section 12. Eminent Domain. In the event the whole or any part of the Property is taken by eminent domain proceedings, the interest of the Authority shall be recognized and is hereby determined to be the amount of unpaid Lease Payments and Additional Payments due the Authority under the Lease Agreement.

Section 13. Partial Invalidity. If any one or more of the terms, provisions, covenants or conditions of this Property Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Property Lease shall be affected thereby, and each provision of this Property Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 14. Applicable Law. This Property Lease shall be governed by and construed in accordance with the laws of the State.

Section 15. Representatives. Whenever under the provisions of this Property Lease the approval of the Authority or the City is required, or the Authority or the City is required to take some action at the request of the other, such approval or such request shall be given for the Authority by an Authorized Representative of the Authority and for the City by an Authorized Representative of the City and any party hereto shall be authorized to rely upon any such approval or request.

Section 16. Notices. All notices or other communications hereunder shall be sufficiently given and shall be deemed to have been received five days after deposit in the United States mail in registered or certified form, postage prepaid:

If to the City:	City of California City 21000 Hacienda Blvd. California City, California 93505 Attention: City Manager
If to the Authority:	California City Financing Authority c/o City of California City 21000 Hacienda Blvd. California City, California 93505 Attention: Executive Director
If to the U.S.:	United States of America Rural Utility Services Department of Agriculture _____ _____ Attention: _____

The Authority, the City and the U.S., by notice given hereunder, may designate different addresses to which subsequent notices or other communications will be sent. The Authority and the City agree to give the U.S. copies of all notices or other communications given to the other party hereunder.

Section 17. Captions. The captions or headings in this Property Lease are for convenience only and in no way define, limit or describe the scope or intent of any provision or section of this Property Lease.

Section 18. Execution in Counterparts. This Property Lease may be executed in any number of counterparts, each of which shall be deemed to be an original but all together shall constitute but one and the same instrument.

Section 19. Amendment. The terms of this Property Lease shall not be waived, altered, modified, supplemented or amended in any manner whatsoever, except by written instrument signed by the Authority and the City, with the prior written consent of the U.S.

IN WITNESS WHEREOF, the parties have caused this Property Lease to be executed by their duly authorized officers on the date and year first above written.

CITY OF CALIFORNIA CITY, as Lessor

By: _____
Mayor

ATTEST:

City Clerk

CALIFORNIA CITY FINANCING AUTHORITY,
as Lessee

By: _____
Chairman

ATTEST:

Secretary

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

The Property shall consist of the certain water facilities located on the Property, together with structure and improvements provided therefore located within the boundaries of the City of California City.

State of California)
) ss.
County of Kern)

On _____, 2006, before me, _____
(name, title of officer, e.g., "Jane Doe, Notary Public")

personally appeared _____
(name(s) of signer(s))

personally known to me, OR,
 proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity/ies, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which person(s) acted, executed the instrument.

Witness my hand and official seal.

(signature of notary)

State of California)
) ss.
County of Kern)

On _____, 2006, before me, _____
(name, title of officer, e.g., "Jane Doe, Notary Public")

personally appeared _____
(name(s) of signer(s))

personally known to me, OR,
 proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity/ies, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which person(s) acted, executed the instrument.

Witness my hand and official seal.

(signature of notary)

State of California)
) ss.
County of Kern)

On _____, 2006, before me, _____
(name, title of officer, e.g., "Jane Doe, Notary Public")

personally appeared _____
(name(s) of signer(s))

- personally known to me, OR,
- proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity/ies, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which person(s) acted, executed the instrument.

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(signature of notary)

State of California)
) ss.
County of Kern)

On _____, 2006, before me, _____
(name, title of officer, e.g., "Jane Doe, Notary Public")

personally appeared _____
(name(s) of signer(s))

- personally known to me, OR,
- proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity/ies, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which person(s) acted, executed the instrument.

Witness my hand and official seal.

(signature of notary)

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
STRADLING YOCCA CARLSON & RAUTH)
660 Newport Center Drive, Suite 1600)
Newport Beach, California 92660)
Attn: David R. McEwen, Esq.)
)

[Space above for recorder.]
This document is recorded for the benefit of the City
of California City, and the recording is fee-exempt
under Section 6103 of the Government Code. Term of
lease less than 99 years.

LEASE AGREEMENT

BETWEEN

**CITY OF CALIFORNIA CITY,
As Lessee**

AND

**CALIFORNIA CITY FINANCING AUTHORITY,
As Lessor**

Dated as of May 1, 2006

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease"), dated as of May 1, 2006, by and between the CALIFORNIA CITY FINANCING AUTHORITY, a public body, corporate and politic duly organized and existing under the laws of the State of California, as lessor (the "Authority"), and the CITY OF CALIFORNIA CITY, a municipal corporation duly organized and existing under and by virtue of the Constitution and laws of the State of California, as lessee (the "City");

WITNESSETH:

WHEREAS, pursuant to the Government Code of the State of California, the City may enter into leases and agreements relating to real property to be used by the City; and

WHEREAS, to obtain funds needed to reimburse the City for expenditures incurred in connection with the city's Water System Improvements (the "Project"), the Authority and the City will enter into this Lease Agreement pursuant to which the City will lease the Property and the Project back from the Authority; and the Authority will assign its rights under the Lease Agreement to the U.S. Department of Agriculture Rural Utilities Service (the "U.S.") under that certain Assignment Agreement between the U.S., the City and the Authority dated as of May 1, 2006 (the "Assignment Agreement"); and

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND EXHIBITS

Section 1.1. Definitions and Rules of Construction. Unless the context otherwise requires, the capitalized terms used herein shall, for all purposes of this Lease, have the meanings herein specified. Unless the context otherwise indicates, words importing the singular number shall include the plural number and vice versa. The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Lease, refer to this Lease as a whole.

"Additional Payments" shall have the meaning ascribed thereto in Section 4.11 hereof.

"Authorized Representative of the Authority" shall mean the Executive Director of the Authority and any person or persons designated by the Executive Director of the Authority and authorized to act on behalf of the Authority as certified by a written certificate signed on behalf of the Authority by the Executive Director of the Authority and containing the specimen signature of each such person.

"Authorized Representative of the City" shall mean the City Manager, or any person or persons designated by the City Manager and authorized to act on behalf of the City by a written certificate signed on behalf of the City by the City Manager and containing the specimen signature of each such person

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

“Closing Date” means the date on which the Lease Agreement is expected to be delivered to the Authority.

“Code” means the Internal Revenue Code of 1986, as amended and the United States Treasury Regulations proposed or in effect with respect thereto.

“Cost,” “Cost of the Project” or “Project Costs” shall mean and be deemed to include, with respect to the Project together with any other proper item of cost not specifically mentioned herein, whether incurred prior to or after the Delivery Date, (a) costs of payment of, or reimbursement for, acquisition, design, construction, rehabilitation, installation and financing of the Project, including, but not limited to, administrative costs and capital expenditures relating to acquisition, construction and installation, inspection costs, filing and recording costs, printing costs, reproduction and binding costs, fees and charges of the U.S. pursuant to the Assignment Agreement, financing documents, legal fees and charges, financial, accounting and other professional consultant fees, costs of rating agencies or credit ratings, fees for the printing, execution, transportation and safekeeping of this Lease Agreement, and; (b) all other costs which the Authority shall be required to pay under the terms of any contract or contracts for the acquisition, construction and installation of the Project, including, but not limited to the cost of insurance; (c) any sums required to reimburse the Authority for advances made for any of the above items, or for any other costs incurred and for work done, which is properly chargeable to the Project; and (d) such other expenses not specified herein as may be necessary or incidental to the acquisition, construction and installation of the Project, the financing thereof and the placing of the same in use and operation. Costs as defined herein shall be deemed to include the cost and expenses incurred by any agent of the Authority for any of the above mentioned items.

“Costs of Issuance” means all expenses and costs of the Authority or the City incident to the performance of its obligations in connection with the authorization, execution, sale and delivery of this Lease Agreement, including, but not limited to fees and expenses of consultants and fees and expenses of Bond Counsel and other legal counsel to the Authority or the City.

“Costs of Issuance Account” means the account by that name established pursuant to Section 4.1 of the Assignment Agreement.

“Delivery Date” means the date of the initial execution and delivery of this Lease Agreement.

“Events of Default” shall mean events of default as set forth in Section 9.1 of the Lease Agreement.

“Fiscal Year” shall mean the twelve month fiscal period of the City which commences on July 1 in every year and ends on June 30 of the succeeding year.

“GAAP” shall mean general accepted accounting principles.

“Independent Counsel” means an attorney duly admitted to the practice of law before the highest court of the state in which such attorney maintains an office and who is not an employee or officer of the Authority or the City.

“Interest Payment Date” shall mean May 1 and November 1 of each year commencing May 1, 2006.

“Lease” means this Lease Agreement, between the City and the Authority, as amended and supplemented from time to time in accordance with its terms.

“Lease Payment Account” means the Lease Payment Account established in Section 4.1 of the Assignment Agreement.

“Lease Payment Date” means the Interest Payment Date.

“Lease Payments” means the amount payable pursuant to Section 4.4 hereof.

“Loan” means _____.

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

“Net Proceeds” shall mean any insurance or condemnation proceeds paid with respect to the Project and remaining after payment therefrom of all expenses incurred in the collection thereof; and, with respect to insurance, if and at such time as City elects to provide self-insurance under the Lease Agreement, any moneys paid from any self-insurance fund of City.

“Net Revenues” means for any Fiscal Year, the Water Revenues for such Fiscal Year less the Water System Operation and Maintenance Costs for such Fiscal Year.

“Permitted Encumbrances” means as of any particular time: (1) liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the City may, pursuant to Section 7.7 hereof, permit to remain unpaid; (2) this Lease Agreement and the Property Lease as they may be amended from time to time; (3) any right or claim of any mechanic, laborer, materialman, supplier or vendor filed or perfected in the manner prescribed by law to the extent permitted under Section 7.8(b) hereof; (4) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record as of the date of delivery hereof and which the City certifies in writing on the date of delivery hereof will not materially impair the use of the Property; and (5) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions established following the date of delivery hereof, or existing on any real property substituted for the Property, to which the Authority and the City consent in writing and which the City certifies will not materially impair the use of the Property or real property substituted for the Property, as the case may be.

“Project” means the Property and the improvements thereon comprising the Water System Improvement Project as described in Exhibit A and B to the Lease Agreement

“Property” means the real property described from time to time in Exhibit B hereto (including all improvements existing thereon).

“Property Lease” means the Property Lease between the City, as lessor, and the Authority, as lessee, as amended and supplemented from time to time in accordance with its terms.

“Purchase Option Price” shall mean the amount to be paid pursuant to the Lease Agreement, as the same may be amended, plus interest on such principal to the redemption date and premium, if any.

“Site” shall mean the Property.

“State” shall mean the State of California.

“Term” means the duration of this Lease pursuant to the provisions of Section 4.2 hereof.

“Water Enterprise Fund” means the enterprise fund referred to in Section 3.3 for the Water System held by the City.

“Water Revenues” means all gross income, rents, rates, fees, charges and other moneys derived from the ownership or operation of the Water System calculated in accordance with GAAP and deposited in the Water Enterprise Fund, including, without limiting the generality of the foregoing,

(1) all income, rents, rates, fees, charges, business interruption insurance proceeds or other moneys derived by the City from the sale, furnishing and supplying of the water or other services, facilities, and commodities sold, furnished or supplied through the facilities of or in the conduct or operation of the business of the Water System, plus

(2) the earnings on and income derived from the investment of such income, rents, rates, fees, charges, or other moneys, including City Water System reserves, plus

(3) the proceeds of any connection charges collected by the City,

but excluding in all cases customer deposits or any other deposits or advances subject to refund until such deposits or advances have become the property of the City, and excluding any proceeds of taxes restricted by law to be used by the City to pay bonds hereafter issued.

“Water System Operation and Maintenance Costs” means reasonable and necessary costs spent or incurred for maintenance and operation of the Water System (including payments for water purchases) calculated in accordance with GAAP, including (among other things) the reasonable expenses of management and repair and other expenses necessary to maintain and preserve the Water System in good repair and working order, and including administrative costs of the City that are charged directly or apportioned to the Water System, including but not limited to salaries and wages of employees, payments to the Public Employees Retirement System, transfers to the City’s general fund, overhead, insurance, taxes (if any), fees of auditors, accountants, attorneys, consultants or engineers and insurance premiums, and including all other reasonable and necessary costs of the City or charges (but excluding debt service payments or other similar payments on Parity Obligations or other obligations, other than obligations for water purchases) required to be paid by it to comply with the terms of this Agreement or any other Contract or of any resolution or indenture authorizing the issuance of any bonds or obligations, but excluding in all cases depreciation, replacement and

obsolescence charges or reserves therefor and amortization of intangibles or other bookkeeping entries of a similar nature.

Section 1.2. Exhibits. The following Exhibits are attached to, and by reference made a part of, this Lease Agreement:

- Exhibit A: Description of the Project.
- Exhibit B: Description of the Property.
- Exhibit C: Schedule of Lease Payments.
- Exhibit D: Lease Supplement.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1. Representations, Covenants and Warranties of the City. The City represents, covenants and warrants to the Authority as follows:

(a) Due Organization and Existence. The City is a body corporate and politic, duly organized and existing under and by virtue of the laws of the State, with the power and authority to own, lease and acquire real and personal property and equipment.

(b) Authorization; Enforceability. The laws of the State authorize the City to enter into this Lease Agreement and the Property Lease and to enter into the transactions contemplated by and to carry out its obligations under all of the aforesaid agreements, and the City has duly authorized and executed all of the aforesaid agreements. This Lease Agreement and the Property Lease constitute the legal, valid and binding obligations of the City, enforceable in accordance with their respective terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles affecting the rights of creditors generally.

(c) No Conflicts or Default; No Liens or Encumbrances. Neither the execution and delivery of this Lease Agreement and the Property Lease, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the City is now a party or by which the City is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the City or upon the Property, except for Permitted Encumbrances.

(d) Execution and Delivery. The City has duly authorized and executed this Lease Agreement and the Property Lease in accordance with the laws of the State.

(e) Indemnification of Authority. To the extent permitted by law, the City covenants to defend, indemnify and hold harmless the Authority and its assigns (including specifically the U.S.), directors and employees (collectively, the "Indemnified Party") against any

and all losses, claims, damages or liabilities, joint or several, including fees and expenses incurred in connection therewith, to which such Indemnified Party may become subject under any statute or at law or in equity or otherwise in connection with the transactions contemplated by this Lease Agreement, and shall reimburse any such Indemnified Party for any legal expenses reasonably incurred by it in connection with defending any actions, insofar as such losses, claims, damages, liabilities or actions arise out of the transactions contemplated by this Lease Agreement or the Property Lease. In particular, without limitation, to the extent permitted by law, the City shall and hereby agrees to indemnify and save the Indemnified Party harmless from and against all claims, losses and damages, including legal fees and expenses, to the extent arising out of (i) the use, maintenance, condition or management of, or from any work or thing done on, the Property or the Project by the City, (ii) any breach or default on the part of the City in the performance of any of its obligations under this Lease Agreement or the Assignment Agreement, (iii) any act of negligence of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Project or the Property, or (iv) any act of negligence of any assignee or sublessee of the City with respect to the Property or the Project. No indemnification is made under this Section or elsewhere in this Lease Agreement for claims, losses or damages, including legal fees and expenses arising out of the willful misconduct, negligent acts or omissions, or breach of duty under this Lease Agreement, the Property Lease or the Assignment Agreement by the Authority, its officers, directors, agents, employees, successors or assigns.

(f) General Tax and Arbitrage Covenant. The City hereby covenants that, notwithstanding any other provision of this Lease Agreement, it will make no use of the proceeds of this Loan or of any other amounts, regardless of the source, or of any property or take any action, or refrain from taking any action that may cause the obligations of the City under this Lease Agreement to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), or under applicable Treasury regulations promulgated thereunder.

In addition, the City covenants that it will not make any use of the proceeds of the obligations provided herein or of any other funds of the City or take or omit to take any other action that would cause the obligations of the City under the Lease Agreement to be "private activity bonds" within the meaning of Section 141 of the Code, or "federally guaranteed" within the meaning of Section 149(b) of the Code. To that end, so long as necessary to maintain the exclusion from gross income for federal income tax purposes of the interest portion of the Lease Payments, the City will comply with all requirements of such Sections and all regulations of the United States Department of the Treasury issued thereunder and under Section 103 of the Code, to the extent that such requirements are, at the time, applicable and in effect.

Section 2.2. Representations, Covenants and Warranties of the Authority. The Authority represents, covenants and warrants to the City as follows:

(a) Due Organization and Existence; Enforceability. The Authority is a public body, corporate and politic, duly organized, existing and in good standing under and by virtue of the laws of the State, has the power to enter into this Lease Agreement, the Property Lease and the Assignment Agreement; is possessed of full power to own and hold real and personal property, and to lease and sell the same; and has duly authorized the execution and delivery of this Lease Agreement, the Property Lease and the Assignment Agreement. This Lease Agreement, the Property Lease and the Assignment Agreement constitute the legal, valid and binding obligations of the Authority, enforceable in accordance with their respective terms, except to the extent limited by

applicable bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles affecting the rights of creditors generally.

(b) No Encumbrances. The Authority will not pledge the Lease Payments or Additional Payments or other amounts derived from the Property or from its other rights under this Lease Agreement or the Property Lease, except for Permitted Encumbrances and except as provided under the terms of this Lease Agreement.

(c) No Conflicts or Defaults; No Liens or Encumbrances. Neither the execution and delivery of this Lease Agreement, the Property Lease or the Assignment Agreement nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of the by-laws of the Authority or any restriction or any agreement or instrument to which the Authority is now a party or by which the Authority is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Authority or upon the Property, except for Permitted Encumbrances.

(d) Execution and Delivery. The Authority has duly authorized and executed this Lease Agreement, the Property Lease and the Assignment Agreement in accordance with the Constitution and laws of the State.

(e) General Tax and Arbitrage Covenant. The Authority covenants that, notwithstanding any other provision of this Lease Agreement, it will make no use of the proceeds of this Lease Agreement or of any other amounts or property, regardless of the source, or take any action or refrain from taking any action that may cause the obligations of the City under this Lease Agreement to be "arbitrage bonds" subject to federal income taxation by reason of Section 148 of the Code.

In addition, the Authority covenants that it will not make any use of the proceeds of the obligations provided herein or of any other funds of the City or the Authority or take or omit to take any other action that would cause such obligations to be "private activity bonds" within the meaning of Section 141 of the Code, or "federally guaranteed" within the meaning of Section 149(b) of the Code. To that end, so long as necessary to maintain the exclusion from gross income for federal income tax purposes of the interest portion of the Lease Payments, the Authority will comply with all requirements of such Sections and all regulations of the United States Department of the Treasury issued thereunder and under Section 103 of the Code, to the extent that such requirements are, at the time, applicable and in effect.

(f) Maintenance of Corporate Existence. To the extent permitted by law, the Authority agrees that during the Term it will maintain its existence as a public entity, will not dissolve or otherwise dispose of all or substantially all of its assets.

ARTICLE III

CONSTRUCTION OF THE PROJECT

Section 3.1. Deposit of Bond Proceeds.

(a) On the Closing Date, the Authority agrees to pay or cause to be paid to the City the rental due under the Property Lease, and to deposit to the Project Account to be created and established by the City the proceeds of the Loan.

Section 3.2. Application of Project Account. The Project Account shall be applied to the payment of Project Costs.

(a) Upon distribution of all of the moneys deposited in the Project Account, the City shall close the account.

Section 3.3. Allocation of Water Revenues. In order to carry out and effectuate the pledge and lien contained herein, the City agrees and covenants that all Water Revenues shall be received by the City in trust hereunder and shall be deposited when and as received in a special fund designated as the "Water Enterprise Fund," which funds the City agrees and covenants to maintain and to hold separate and apart from other funds so long as any Contracts including this Lease Agreement remain unpaid. Moneys in the Water Enterprise Fund shall be used and applied by the City as provided in this Lease Agreement.

The City shall pay, from the moneys in the Water Enterprise Fund, the Lease Payments as they become due and payable. Thereafter, all remaining moneys in the Water Enterprise Fund shall be set aside by the City and applied by the City to the payment of Water System Operation and Maintenance Costs (including amounts reasonably required to be set aside in contingency reserves for Water System Operation and Maintenance Costs, the payment of which is not then immediately required) as they become due and payable. Moneys on deposit in the Water Enterprise Fund at any time not necessary to make the next Lease Payment required hereunder or to pay Water System Operation and Maintenance Costs, may be expended by the City at any time for any purpose permitted by law.

Section 3.4. Additional Contracts and Parity Obligations. Provided the City is not currently in default hereunder, the City may issue or incur other evidences of indebtedness or other obligations (including Water System Operation and Maintenance Costs) secured by Water Revenues, notwithstanding anything herein to the contrary.

Section 3.5. Further Assurances and Corrective Instruments. The Authority and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Property hereby leased or intended so to be or for carrying out the expressed intention of this Lease Agreement.

ARTICLE IV

AGREEMENT OF LEASE; TERM OF LEASE; LEASE PAYMENTS

Section 4.1. Lease. The Authority hereby leases the Property and the Project to the City upon the terms and conditions set forth herein.

Section 4.2. Term. The Term of this Lease Agreement shall commence on the Closing Date and shall end on November 1, 20__, unless extended pursuant to Section 4.3 hereof, or unless terminated prior thereto upon the earlier of the following events:

(a) **Payment of All Lease Payments.** The payment by the City of all Lease Payments required under Section 4.4 hereof and any Additional Payments required under Section 4.11 hereof with respect to the Project; or

(b) **Prepayment.** The optional prepayment of all Lease Payments in accordance with Section 10.3 hereof and the payment of all Additional Payments due through such prepayment date.

Section 4.3. Extension of Lease Term. If on November 1, 20__ this Lease Agreement shall not be fully paid, then the Term shall be extended until all Bonds shall be fully paid, except that the Term shall in no event be extended beyond November 1, 20__.

Section 4.4. Lease Payments.

(a) **Time and Amount.** Subject to the provisions of Article X hereof (regarding prepayment of Lease Payments), the City agrees to pay to the Authority, its successors and assigns, as annual rental for the use and possession of the Property and the Project, the Lease Payments (denominated into interest portions and principal portions) to be due and payable in arrears on the days specified in Exhibit C hereto or if such a day is not a Business Day then on the next preceding Business Day (each such day a "Lease Payment Date"). Exhibit C to this Lease Agreement may be amended at the written direction of an Authorized Representative of the City to allocate the Lease Payments to the individual Components of the Project so long as the Lease Payments allocated to a Component do not exceed the fair rental value of a Component (as determined by a real estate appraiser selected by the City, who may be an employee of the City). The City hereby unconditionally pledges the Net Revenues to the payment of the Lease Payments and Additional Payments.

(b) **Credits.** Any amount held in the Lease Payment Account on any Lease Payment Date (other than amounts required for payment of past due principal or interest with respect to any Bonds that have matured or been called for redemption and have not been presented for payment or amounts which have been paid with respect to a prior Lease Payment Date but not yet distributed to Bond Owners) shall be credited toward the Lease Payment then due and payable. No Lease Payment need be made on any Lease Payment Date if the amounts then held in the Lease Payment Account (other than those amounts excluded under the prior sentence) are at least equal to the cumulative total of Lease Payments then required to be paid.

(c) Rate on Overdue Payments. In the event the City should fail to make any Lease Payment required by this Section 4.4, or any portion of any such Lease Payment, the Lease Payment or portion in default shall continue as an obligation of the City until the amount in default shall have been fully paid, and the City agrees to pay the same with interest thereon, to the extent permitted by law, from the date such amount was originally payable at the rate equal to the rate on the Loan.

Section 4.5. No Withholding. Notwithstanding any dispute between the Authority and the City, the City shall make all Lease Payments when due and shall not withhold any Lease Payment pending the final resolution of such dispute.

Section 4.6. Fair Rental Value. The Lease Payments and the Additional Payments (as defined in Section 4.11 hereof) shall be paid by the City in consideration of the right of possession of, and the continued quiet use and enjoyment of, the Property and the Project during each such period for which said rental is to be paid. The parties hereto have agreed and determined that such total rental to be paid hereunder does not exceed the fair rental value of the Property and the Project during the term of this Lease Agreement. In making such determination, consideration has been given to the fair rental value of the Property and the Project (including but not limited to costs of maintenance, taxes and insurance), the uses and purposes which may be served by the Property and the Project and the benefits therefrom which will accrue to the City and the general public.

Section 4.7. Budget and Appropriation. The City covenants to take such action as may be necessary to include all Lease Payments and Additional Payments due hereunder in its proposed annual budget and its final adopted annual budget with respect to the Water System and to make the necessary appropriations for any amount of Lease Payments and Additional Payments to be paid therefor. The City shall furnish to the U.S. a certification on or before each August 1 that it has adopted such final annual budget providing for such payments of all Lease Payments and Additional Payments.

The obligation of the City to pay Lease Payments and Additional Payments hereunder shall constitute a current expense of the City payable from Water Revenues or any other legally available funds and shall not in any way be construed to be a debt, liability or obligation of the City, or the State, or any political subdivision thereof, in contravention of any applicable constitutional or statutory limitation or requirements concerning the creation of indebtedness by the City, the State, or any political subdivision thereof, or an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation.

Section 4.8. Assignment of Lease Payments. Certain of the Authority's rights under this Lease Agreement, including the right to receive and enforce payment of the Lease Payments to be made by the City hereunder, have been assigned by the Authority to the U.S., subject to certain exceptions, pursuant to the Assignment Agreement, to which assignments the City hereby consents. The Authority hereby directs the City, and the City hereby agrees, to pay to the U.S. at such place as the U.S. shall direct in writing, all Lease Payments or prepayments thereof payable by the City hereunder. The Authority will not assign or pledge the Lease Payments or other amounts derived from the Property and the Project or from its other rights under this Lease Agreement except as provided under the terms of this Lease Agreement, or its duties and obligations except as provided under the Assignment Agreement.

Section 4.9. Use and Possession. The total Lease Payments and Additional Payments due in any Fiscal Year shall be for the use and possession of the Property and the Project for such Fiscal Year. During the Term of this Lease Agreement, the City shall be entitled to the exclusive use of the Property and the Project subject only to the Permitted Encumbrances.

Section 4.10. No Abatement of Lease Payments and Additional Payments in Event of Loss of Use. Notwithstanding a substantial interference with the use and possession of all or a portion of the Property or the Project, the City shall remain obligated to make Lease Payments to the extent that Water Revenues are available in the Water Enterprise Fund to pay the Lease Payments, which amounts are unconditionally pledged to the payment of Lease Payments.

Section 4.11. Additional Payments. In addition to the Lease Payments, the City shall also pay such amounts ("Additional Payments") as shall be required for the payment of all administrative costs of the Authority relating to the Property, including without limitation all amounts required to cause the amount on deposit in the Reserve Account to an amount equal to the Reserve Requirement, all expenses including usual and ordinary legal fees and expenses, assessments, compensation and indemnification of the Authority payable by the City, any amounts required to be rebated to the federal government in order to comply with the provisions of Section 148 of the Code, taxes of any sort whatsoever payable by the Authority as a result of its lease of the Property or undertaking of the transactions contemplated herein or in the Assignment Agreement, fees of auditors, accountants, attorneys or engineers, insurance premiums required by Article V hereof, items required by Section 7.7 hereof and all other necessary administrative costs of the Authority or charges required to be paid by it in order to comply with the terms of the Loan or of the Assignment Agreement or to indemnify the U.S. and its officers and directors. All such Additional Payments to be paid hereunder shall be paid when due directly by the City to the respective parties to whom such Additional Payments are owing.

Section 4.12. Net-Net-Net Lease. This Lease Agreement shall be deemed and construed to be a "net-net-net lease" and the City hereby agrees that the Lease Payments shall be an absolute net return to the Authority, free and clear of any expenses, charges or set-offs whatsoever, except as expressly provided herein.

ARTICLE V

INSURANCE

Section 5.1. Insurance. The City will procure and maintain insurance (which may be self-insurance) on the Water System (including the Project) with responsible insurers at reasonable cost in such amount and against such risks (including damage to or destruction of the Water System) as are usually covered in connection with facilities similar to the Water System, but not less than the lesser of the full replacement cost or the principal amount of Bonds then outstanding, so long as such insurance is available from reputable insurance companies.

In the event of any damage to or destruction of the Water System caused by the perils covered by such insurance, the Net Proceeds thereof shall be applied to the reconstruction, repair or replacement of the damaged or destroyed portion of the Water System. The City 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 Water System shall be free and clear of all claims and liens except as provided in Section 7.8.

The City shall provide adequate reserves to cover the amount of any deductible provisions of the insurance required to be maintained pursuant to this Section 5.1.

Section 5.2. Cooperation. The Authority shall cooperate fully with the City at the expense of the City in filing any proof of loss with respect to any insurance policy maintained pursuant to this Article and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Property, the Project or any portion thereof.

Section 5.3. Insurance and Condemnation Account.

(a) Creation of Account. The City shall create, hold and administer a fund to be known as the Insurance and Condemnation Account; provided that until such time as the City shall have received Net Proceeds, the City need not establish or maintain such an account.

(b) Application of Net Proceeds. There shall be paid into the Insurance and Condemnation Account the Net Proceeds of insurance maintained pursuant to Section 5.1 hereof and any condemnation awards constituting Net Proceeds and any additional amount required to be paid by the City pursuant to Section 6.1(c) hereof. In the event that the City elects to restore or replace the Property or the Project as provided in Section 6.1(b) hereof, then such Net Proceeds shall be disbursed in accordance with requisitions approved by an Authorized Representative of the City. Promptly upon determining that the restoration of the Property or the Project are complete, the Authorized Representative of the City shall so notify the U.S. in writing that the restoration is complete. Any balance of Net Proceeds remaining after the final disbursement to restore the Property or the Project, or, in the event the City elects not to restore the Property or the Project as provided in Section 6.1(c) hereof, all Net Proceeds, and any deposit made by the City in accordance with Section 6.1(c) hereof shall be transferred by the City to the Authority for application to the prepayment of Lease Payments in accordance with Article X hereof.

ARTICLE VI

DAMAGE, DESTRUCTION AND EMINENT DOMAIN; USE OF NET PROCEEDS

Section 6.1. Application of Net Proceeds.

(a) Deposit in Insurance and Condemnation Account. Pursuant to Section 5.3 hereof, the U.S. shall deposit the Net Proceeds of any insurance required by Section 5.1 hereof in the Insurance and Condemnation Account promptly upon receipt thereof. The City and/or the Authority shall transfer to the U.S. any other Net Proceeds received by the City and/or Authority in the event of any taking by eminent domain or condemnation with respect to the Property or the Project, for deposit in the Insurance and Condemnation Account.

(b) Disbursement for Replacement or Repair of the Property or the Project. Upon receipt of the certificate described in paragraph (i) below and the requisition described in paragraph (ii) below, the parties hereto agree that the City shall disburse moneys in the Insurance and Condemnation Account to the person, firm or corporation named in the requisition as provided in Section 5.3 hereof.

(i) Certification. The Authorized Representative of the City must provide to the Authority and the U.S. a certificate stating that:

(A) Sufficiency of Net Proceeds. The Net Proceeds available for such purpose, together with any other funds supplied by the City for such purpose, are sufficient to restore the Property or the Project to a use which will have an annual fair rental value not less than the annual Lease Payments and Additional Payments due hereunder (assuming that the annual Additional Payments due in the future will equal the average annual Additional Payments prior to such date), and

(B) Timely Completion. In the event that damage, destruction or taking results in an abatement of Lease Payments and Additional Payments, such replacement or repair can be fully completed within a period approved by the U.S.

(ii) Any balance of the Net Proceeds remaining after such replacement or repair has been completed shall be disbursed as provided in subsection (c) below.

(c) Disbursement for Prepayment. If the Authorized Representative of the City notifies the U.S. in writing of the City's determination that the certification provided in Section 6.1(b)(i) hereof cannot be made or replacement or repair of any portion of the Property or the Project are not economically feasible or in the best interest of the City, then the City shall deposit with the U.S. an amount which when combined with the Net Proceeds will prepay enough Lease Payments such that the fair rental value of the remaining portion of the Property and the Project are sufficient to pay the principal portions and interest portions due under the Lease Agreement after such Net Proceeds and such deposit by the City are applied to such prepayment.

ARTICLE VII

COVENANTS WITH RESPECT TO THE PROPERTY, THE PROJECT AND THE WASTEWATER SYSTEM

Section 7.1. Use of the Property and the Project. The City represents and warrants that it has an immediate need for all of the Property and the Project, which need is not expected to be temporary or to diminish in the foreseeable future.

Section 7.2. Leasehold Interest in the Property.

(a) **Authority Holds Leasehold Interest During Term.** During the Term, the Authority shall hold a leasehold interest in the Property pursuant to the Property Lease. The City shall take any and all actions reasonably required, including but not limited to executing and filing any and all documents, reasonably required to maintain and evidence the Authority's leasehold interest in the Property at all times during the Term.

(b) **Leasehold Interest Transferred to City at End of Term.** Upon the expiration of the Term as provided in Section 4.2 hereof, the Authority's leasehold interest in the Property pursuant to the Property Lease shall be transferred to and vest in the City, free and clear of any interest of the City or its assigns, without the necessity of any additional document of transfer.

Section 7.3. Option to Prepay Lease Payments. The City may exercise an option to prepay all or a portion of the Lease Payments relating to the Project in accordance with Article X hereof and, by prepaying Lease Payments in the amounts necessary to cause the termination of the Term as provided in Section 4.2(b) hereof, terminate the Authority's leasehold interest in the Property under the Property Lease.

Section 7.4. Quiet Enjoyment. Subject only to Permitted Encumbrances, during the Term the Authority shall provide the City with quiet use and enjoyment of the Property and the Project, and the City shall during such Term peaceably and quietly have and hold and enjoy the Property and the Project, without suit, trouble or hindrance from the Authority, or any person or entity claiming under or through the Authority except as expressly set forth in this Lease Agreement. The Authority will, at the request of the City, join in any legal action in which the City asserts its right to such possession and enjoyment to the extent the Authority may lawfully do so. Notwithstanding the foregoing, the Authority shall have the right of access to the Property as provided in Section 7.6 hereof.

Section 7.5. Installation of City's Personal Property. The City may at any time and from time to time, in its sole discretion and at its own expense, install or permit to be installed items of equipment or other personal property in or upon any portion of the Property. All such items shall remain the sole personal property of the City, regardless of the manner in which the same may be affixed to such portion of the Property, in which neither the Authority nor the U.S. shall have any interest, and may be modified or removed by the City at any time; provided that the City shall repair and restore any and all damage to such portion of the Property resulting from the installation, modification or removal of any such items of equipment. Nothing in this Lease Agreement shall prevent the City from purchasing items to be installed pursuant to this Section, provided that no lien or security interest attaching to such items shall attach to any part of the Property or the Project.

Section 7.6. Access to the Property. The City agrees that the Authority and the Authority's successors or assigns shall have (1) the right at all reasonable times to enter upon the Property or any portion thereof to examine and inspect the Property or the Project, and (2) such rights of access to the Property as may be reasonably necessary to cause the proper maintenance of the Property or the Project in the event of failure by the City to perform its obligations hereunder.

Section 7.7. Maintenance, Utilities, Taxes and Assessments.

(a) **Maintenance; Repair and Replacement.** Throughout the Term of this Lease Agreement, as part of the consideration for the rental of the Property and the Project, all repair and maintenance of the Property shall be the responsibility of the City, and the City shall pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Property and the Project resulting from ordinary wear and tear or want of care on the part of the City or any sublessee thereof. The City shall provide or cause to be provided all security service, custodial service, power, gas, telephone, light, heating and water, and all other public utility services for the Property. In exchange for the Lease Payments herein provided, the Authority agrees to provide only the Property and the Project.

(b) **Tax and Assessments; Utility Charges.** The City shall also pay or cause to be paid all taxes and assessments, including but not limited to utility charges of any type or nature charged to the Authority or the City or levied, assessed or charged against any portion of the Property or the respective interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the City shall be obligated to pay only such installments as are required to be paid during the Term of this Lease Agreement as and when the same become due.

(c) **Contests.** The City may, at its expense and in its name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom; provided that prior to such nonpayment it shall furnish the Authority and the U.S. with the opinion of an Independent Counsel to the effect that, by nonpayment of any such items, the interest of the Authority in such portion of the Property will not be materially endangered and that the Property will not be subject to loss or forfeiture. Otherwise, the City shall promptly pay such taxes, assessments or charges or make provisions for the payment thereof in form satisfactory to the Authority. The Authority will cooperate fully in such contest, upon the request and at the expense of the City.

Section 7.8. Modification of the Property or the Project.

(a) **Additions, Modifications and Improvements.** The City shall, at its own expense, have the right to make additions, modifications or improvements to any portion of the Property or the Project if such additions, modifications or improvements are necessary or beneficial for the use of such portion of the Property or the Project. Such additions, modifications and improvements shall not in any way damage any portion of the Property or the Project or cause them to be used for purposes other than those authorized under the provisions of state and federal law or in any way which would impair the exclusion from gross income for federal income tax purposes of the interest portion of the Lease Payments or diminish the fair rental value of the Property; and the Property or the Project, upon completion of any additions, modifications and improvements made

pursuant to this Section, shall be of a value which is not less than the value of the Property and the Project immediately prior to the making of such additions, modifications or improvements.

(b) No Liens. Except for Permitted Encumbrances, the City will not permit any mechanic's or other lien to be established or remain against the Property for labor or materials furnished in connection with any additions, modifications or improvements made by the City pursuant to this Section; provided that if any such lien is established and the City shall first notify or cause to be notified the Authority of the City's intention to do so, the City may in good faith contest any lien filed or established against the Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and shall provide the Authority with full security against any loss or forfeiture which might arise from the nonpayment of any such lien, in form satisfactory to the U.S. of the Authority. The Authority will cooperate fully in any such contest, upon the request and at the expense of the City.

Section 7.9. Liens. Except as permitted by this Lease Agreement (including without limitation Section 7.8, Section 8.1 or Section 8.2 hereof), the City shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, liens, charges, encumbrances or claims, as applicable, on or with respect to the Property, other than Permitted Encumbrances and other than the respective rights of the Authority and the City as herein provided. Except as expressly provided in this Article, the City shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim, for which it is responsible, if the same shall arise at any time; provided that the City may contest such lien or claim if it desires to do so, so long as such contest will not materially, adversely affect the rights of the City to the Property or the Project or the payment of Lease Payments hereunder. The City shall reimburse the Authority for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

Section 7.10. Authority's Disclaimer of Warranties. THE AUTHORITY OR TRUSTEE MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE CITY OF THE PROPERTY OR THE PROJECT OR PORTION THEREOF. THE CITY ACKNOWLEDGES THAT THE AUTHORITY IS NOT A MANUFACTURER OF THE PROJECT OR OF ANY PORTION THEREOF, AND IS NOT A DEALER THEREIN, AND THAT THE CITY IS LEASING THE PROPERTY AND THE PROJECT AS IS. In no event shall the Authority or U.S. be liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Lease Agreement, the Property Lease, or the Assignment Agreement for the existence, furnishing, functioning or City's use and possession of the Property or the Project.

Section 7.11. City's Right to Enforce Warranties of Manufacturers, Vendors or Contractors. The Authority hereby irrevocably appoints the City its agent and attorney-in-fact during the Term, so long as the City shall not be in default hereunder, to assert from time to time whatever claims and rights, including without limitation, warranty claims, claims for indemnification and claims for breach of any representations, respecting the Project which the Authority may have against any manufacturer, vendor or contractor, or any agents thereof. The City's sole remedy for the breach of any such warranty, indemnification or representation shall be against the manufacturer, vendor or contractor with respect thereto, and not against the Authority, nor shall such matter have any effect whatsoever on the rights and obligations of the Authority with respect to this Lease Agreement,

including the right to receive full and timely Lease Payments and to cause the City to make all other payments due hereunder. The City shall be entitled to retain any and all amounts recovered as a result of the assertion of any such claims and rights. The Authority shall, upon the City's request and at the City's expense, do all things and take all such actions as the City may request in connection with the assertion of any such claims and rights.

The City expressly acknowledges that neither the Authority nor the U.S. makes, or has made, any representation or warranty whatsoever as to the existence or availability of such warranties of the manufacturer, vendor or contractor with respect to any item of the Project.

Section 7.12. Reconstruction; Application of Net Proceeds. If any useful portion of the Property or the Project shall be destroyed or is damaged by fire or other casualty, or title to, or the temporary use of, such portion shall be taken under the exercise of the power of eminent domain, the City shall, as expeditiously as possible, continuously and diligently prosecute or cause to be prosecuted the repair, reconstruction, restoration or replacement thereof, unless it is determined under the provisions of Section 6.1(c) hereof that such repair, reconstruction, restoration or replacement is not to be undertaken.

Section 7.13. Water Rate Covenant. The City shall fix, prescribe and collect rates and charges for the Water System which will be at least sufficient to yield Net Revenues (excluding connection fees and other one-time revenues) equal to one hundred twenty-five percent (125%) of the annual Lease Payments coming due and payable during the next succeeding Fiscal Year. The City may make adjustments from time to time in such rates and charges and may make such classification thereof as it deems necessary, but shall not reduce the rates and charges then in effect unless the Net Revenues from such reduced rates and charges will at all times be sufficient to equal at least 150% of annual Lease Payments. 110%

Section 7.14. Collection of Rates and Charges. The City will have in effect at all times by-laws, rules and regulations requiring each customer to pay the rates and charges applicable to the Water System and providing for the billing thereof and for a due date and a delinquency date for each bill. The City will not permit any part of the Water System or any facility thereof to be used or taken advantage of free of charge by any corporation, firm or person, or by any public agency (including the United States of America, the State of California and any city, county, district, political subdivision, public corporation or agency of any thereof); provided, that the City may without charge use the Water System.

Section 7.15. Against Encumbrances. The City will not make any pledge of or place any lien on Net Revenues or the moneys in the Water Enterprise Fund except as provided herein. The City may at any time, or from time to time, issue evidences of indebtedness or incur other obligations for any lawful purpose which are payable from and secured by a pledge of and lien on Net Revenues or any moneys in the Water Enterprise Fund as may from time to time be deposited therein; provided that such pledge and lien shall be subordinate in all respects to the pledge of and lien thereon provided herein.

Section 7.16. Against Sale or Other Disposition of Property. The City will not enter into any agreement or lease which impairs the operation of the Water System or any part thereof necessary to secure adequate Water Revenues for the payment of the Loan, or which would otherwise impair the rights of the City hereunder or the operation of the Water System. Any real or

personal property which has become nonoperative or which is not needed for the efficient and proper operation of the Water System, or any material or equipment which has become worn out, may be sold if such sale will not impair the ability of the City to pay Lease Payments and if the proceeds of such sale are deposited in the Lease Payment Fund.

Nothing herein shall restrict the ability of the City to sell any portion of the Water System if such portion is immediately repurchased by the City and if such arrangement cannot by its terms result in the purchaser of such portion of the system exercising any remedy which would deprive the City of or otherwise interfere with its right to own and operate such portion of the Water System or to lease property pursuant to Section 4.1 hereof.

Section 7.17. Maintenance and Operation of the Water System. The City will maintain and preserve the Water System in good repair and working order at all times and will operate the Water System in an efficient and economical manner and will pay all Water System Operation and Maintenance Costs as they become due and payable.

Section 7.18. Payment of Claims. The City will pay and discharge any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien on the Water Revenues or the funds or accounts created hereunder or on any funds in the hands of the City pledged to pay the Lease Payments prior or superior to the lien of the Lease Agreement or which might impair the security of the Lease Payments. Notwithstanding the foregoing, the City may pledge, encumber or otherwise secure its obligations with the Net Revenues; provided, that in all instances any such pledge, lien or security is wholly subordinate and junior to the obligations of the City contained in the Assignment Agreement or complies with Section 3.4 hereof relating to Parity Obligations.

Section 7.19. Compliance with Contracts. The City will neither take nor omit to take any action under any contract if the effect of such act or failure to act would in any manner impair or adversely affect the ability of the City to pay Lease Payment; and the City will comply with, keep, observe and perform all agreements, conditions, covenants and terms, express or implied, required to be performed by it contained in all other contracts affecting or involving the Water System, to the extent that the City is a party thereto.

Section 7.20. Payment of Taxes and Compliance with Governmental Regulations. The City will pay and discharge all taxes, assessments and other governmental charges which may hereafter be lawfully imposed upon the Project, or any part thereof or upon the Water Revenues when the same shall become due. The City will duly observe and conform with all valid regulations and requirements of any governmental authority relative to the operation of the Project, or any part thereof, but the City shall not be required to comply with any regulations or requirements so long as the validity or application thereof shall be contested in good faith.

Section 7.21. Eminent Domain Proceeds. If all or any part of the Project shall be taken by eminent domain proceedings, the Net Proceeds thereof shall be applied as follows:

(a) If (i) the City files with the Authority and the U.S. a certificate showing (i) the estimated loss of annual Net Revenues, if any, suffered or to be suffered by the City by reason of such eminent domain proceedings, (ii) a general description of the additions, betterments, extensions or improvements to the Project proposed to be acquired and constructed by the City from such Net Proceeds, and (iii) an estimate of the additional annual Net Revenues to be derived from such

additions, betterments, extensions or improvements, and (2) the City, on the basis of such certificate filed with the Authority and the U.S., determines that the estimated additional annual Net Revenues will sufficiently offset the estimated loss of annual Net Revenues resulting from such eminent domain proceedings so that the ability of the City to meet its obligations hereunder will not be substantially impaired (which determination shall be final and conclusive), then the City shall promptly proceed with the acquisition and construction of such additions, betterments, extensions or improvements substantially in accordance with such certificate and such Net Proceeds shall be applied for the payment of the costs of such acquisition and construction, and any balance of such Net Proceeds not required by the City for such purpose shall be deposited in the Project Account.

(b) If the foregoing conditions are not met, then such Net Proceeds shall be applied by the City in part to the prepayment of Lease Payments as provided in Article IV and in part to such other fund or account as may be appropriate and used for the repayment of the Loan.

ARTICLE VIII

ASSIGNMENT, SUBLEASING AND AMENDMENT

Section 8.1. Assignment by the Authority. Except as provided herein, and in the Assignment Agreement, the Authority will not assign this Lease Agreement, or any right, title or interest of the Authority in and to this Lease Agreement, to any other person, firm or corporation so as to impair or violate the representations, covenants and warranties contained in Section 2.2 hereof.

Section 8.2. Assignment and Subleasing by the City.

(a) Assignment. This Lease Agreement may not be assigned by the City unless the City receives an opinion of Bond Counsel, stating that such assignment does not adversely affect the exclusion from gross income for federal income tax purposes of the interest portion of Lease Payments. In the event that this Lease Agreement is assigned by the City, the obligation to make Lease Payments and perform the other covenants of the City hereunder shall remain the obligation of the City.

(b) Sublease. The City may sublease any portion of the Property, with the prior written consent of the Authority, subject to all of the following conditions:

(i) This Lease Agreement and the obligation of the City to make Lease Payments and perform the other covenants of the City hereunder shall remain obligations of the City;

(ii) The City shall, within 30 days after the delivery thereof, furnish or cause to be furnished to the Authority and the U.S. a true and complete copy of such sublease;

(iii) No sublease by the City shall cause the Property or the Project to be used for a purpose other than a governmental or proprietary function authorized under the provisions of the laws of the State; and

(iv) No sublease shall cause the interest portion of Lease Payments, or any of them to become subject to federal income taxes or State of California personal income taxes.

Section 8.3. Amendments and Modifications. The terms of the Lease Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written instrument signed by the Authority and the City, with the written consent of the U.S.

ARTICLE IX

EVENTS OF DEFAULT AND REMEDIES

Section 9.1. Events of Default Defined. The following shall be "events of default" under this Lease Agreement and the terms "events of default" and "default" shall mean, whenever they are used in this Lease Agreement, any one or more of the following events:

(a) **Payment Default.** Failure by the City to pay any Lease Payment or Additional Payment required to be paid hereunder on the date such payment is due hereunder.

(b) **Covenant Default.** Failure by the City to observe and perform any warranty, covenant, condition or agreement on its part to be observed or performed herein or otherwise with respect hereto or in the Property Lease, other than as referred to in clause (a) of this Section, for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Authority; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, then no event of default shall have occurred so long as corrective action is instituted by the City within the applicable period and diligently pursued until the default is corrected.

(c) **Bankruptcy or Insolvency.** The filing by the City of a case in bankruptcy, or the subjection of any right or interest of the City under this Lease Agreement to any execution, garnishment or attachment, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the federal bankruptcy code, as amended, or under any similar act which may hereafter be enacted.

Section 9.2. Remedies on Default. Whenever any event of default referred to in Section 9.1 hereof shall have happened and be continuing, it shall be lawful for the Authority to exercise any and all remedies available pursuant to law or granted pursuant to this Lease Agreement; provided, however, that notwithstanding anything herein or in the Assignment Agreement to the contrary, **THERE SHALL BE NO RIGHT UNDER ANY CIRCUMSTANCES TO ACCELERATE THE LEASE PAYMENTS OR OTHERWISE DECLARE ANY LEASE PAYMENTS NOT THEN DUE OR PAST DUE TO BE IMMEDIATELY DUE AND PAYABLE.**

So long as an event of default exists hereunder, the Authority, or its assignee, is expressly authorized hereby to enter and re-enter the Property for the purpose of taking possession of any portion of the Property if the City does not deliver possession of the Property to the Authority on demand or to re-let the Property and, in addition, at its option, with or without such entry to terminate

this Lease Agreement. In the event that the Authority, or its assignee, does not elect to terminate this Lease Agreement, the City agrees to and shall remain liable for the payment of Lease Payments and Additional Payments and the performance of all conditions herein contained and shall reimburse the Authority, or its assignee, for any deficiency arising out of the re-letting of the Property, or, in the event that the Authority, or its assignee, does not re-let the Property, then for the full amount of the Lease Payments and Additional Payments to the end of the Term of this Lease Agreement, but said Lease Payments, Additional Payments and/or deficiency shall be payable only at the same time and in the same manner as provided in Section 4.4 notwithstanding such entry or re-entry by the Authority, or its assignee, or any suit in unlawful detainer, or otherwise, brought by the Authority, or its assignee, for the purpose of effecting such entry or re-entry or obtaining possession of the Property or the exercise of any other remedy by the Authority or its assignee. The City hereby irrevocably appoints the Authority, or its assignee, as the agent and attorney-in-fact of the City to enter upon and re-let the Property in the event of default hereunder by the City. The City hereby exempts and agrees to save harmless the Authority and its assignee from any costs, loss or damage whatsoever to the extent arising or occasioned by any lawful entry upon and letting of the Property. The City hereby waives any and all claims for damages caused, or which may be caused, by the Authority, or its assignee, lawfully entering and taking possession of the Property. The City agrees that the terms of this Lease Agreement constitute full and sufficient notice of the right of the Authority, or its assignee, to re-let the Property in the event of such re-entry without effecting a surrender of this Lease Agreement, and further agrees that no acts of the Authority, or its assignee, in effecting such re-renting or re-leasing shall constitute a surrender or termination of this Lease Agreement irrespective of the term for which such re-leasing or re-renting is made, or of the terms and conditions of such re-leasing or re-renting, or otherwise, but that, on the contrary, in the event of such default by the City, the right to terminate this Lease Agreement shall vest in the Authority.

In the event of a default, the obligations of the City shall remain the same as prior to such default and the City agrees to and shall remain liable for the payment of all Lease Payments and Additional Payments and the performance of all conditions contained herein to the end of the Term of this Lease Agreement. The City further agrees to reimburse the Authority, and its assignee, for any cost or expense, including attorneys' fees, reasonably incurred by the Authority or its assignees as a result of such default. The City covenants and agrees that no surrender of the Property for the remainder of the Term hereof or any termination of this Lease Agreement shall be valid in any manner or for any purpose whatsoever. No such termination shall be effected by operation of law.

Section 9.3. No Remedy Exclusive. Subject to the express limitation on remedies described in Section 9.2 above, no remedy conferred herein upon or reserved to the Authority is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article it shall not be necessary to give any notice, other than such notice as may be required in this Article or by law.

Section 9.4. Agreement to Pay Attorneys Fees and Expenses. In the event either party to this Lease Agreement should default under any of the provisions hereof and the nondefaulting party should commence legal action or arbitration for the collection of moneys or the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party

contained herein, the defaulting party agrees that it will pay on demand to the nondefaulting party the reasonable attorneys fees, court costs and legal expenses incurred by the nondefaulting party in such action or arbitration after payment of all fees and expenses of the U.S..

Section 9.5. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Lease Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 9.6. U.S. to Exercise Rights. Such rights and remedies as are given to the Authority under this Lease Agreement have been assigned by the Authority to the U.S., to which assignment the City hereby consents. Such rights and remedies shall be exercised by the U.S. subject to the terms of the Assignment Agreement.

ARTICLE X

PREPAYMENT OF LEASE PAYMENTS

Section 10.1. Security Deposit. Notwithstanding any other provision of this Lease Agreement, the City may, on any date, secure the payment of all unpaid Lease Payments attributable to the Project as set forth in Exhibit C hereto by an irrevocable deposit by it with the U.S. of Investment Securities (as defined in the Assignment Agreement) consisting of United States government obligations which are adequate in the opinion of an independent certified public accountant to provide for payment of all unpaid Lease Payments as they become due and payable hereunder with respect to the Project. In such event, and provided that the City has made arrangements acceptable to the U.S. to pay any Additional Payments attributable to the Project, all obligations of the City under this Lease Agreement with respect to the Project, and all security provided by this Lease Agreement for said obligations, shall cease and terminate, excepting only the obligation of the City to make, or cause to be made, Lease Payments from such deposit. On the date of said deposit the leasehold interest in the Project for which such deposit was made shall vest in the City automatically and without further action by the City or the Authority (except as provided herein); provided that the leasehold interest with respect to the Project shall be subject to the subsequent payment of all Lease Payments made from said deposit in full in accordance with the provisions hereof. Said deposit shall be deemed to be and shall constitute a special fund for the payment of Lease Payments in accordance with the provisions of this Lease Agreement. The Authority shall execute and deliver such further instruments and take such further action as may reasonably be requested by the City for carrying out the leasehold interest transfer of the Project for which a security deposit is made hereunder.

Section 10.2. Mandatory Prepayment From Net Proceeds. The City shall be obligated to prepay the Lease Payments in whole or in part on any date, from and to the extent of any Net Proceeds theretofore transferred to the Insurance and Condemnation Account. The City and the Authority hereby agree that such proceeds shall be credited towards the City's obligations hereunder with respect to the Project from which such proceeds were derived (except in the case of such prepayment of the Lease Payments in whole) such that approximately equal annual Lease Payments will prevail with respect to the Project following such prepayment.

Section 10.3. Optional Prepayment. The Authority hereby grants an option to the City to prepay in whole or in part a principal portion of Lease Payments on any date.

The City shall execute said option by giving written notice to the U.S. thereof at least 60 days prior to the date of redemption of Bonds from such prepayment and depositing with said notice cash in the minimum amount of (1) accrued interest on the principal portion of Lease Payments to be prepaid to the date of redemption of Bonds with the proceeds of such prepayment, plus (2) the principal portion of any Lease Payments to be prepaid, plus (3) the applicable prepayment premium described herein.

Section 10.4. Effect of Prepayment.

(a) **In Whole.** In the event that the City prepays all remaining Lease Payments pursuant to Section 10.3 or Section 10.2 hereof and has paid all Additional Payments due hereunder, the City's obligations under this Lease Agreement shall thereupon cease and terminate, including but not limited to the City's obligation to continue to pay Lease Payments hereunder.

(b) **In Part.** In the event the City prepays less than all of the remaining principal portion of the Lease Payments pursuant to Section 10.2 or 10.3 hereof, the amount of such prepayment shall be applied to reduce the principal portion of the remaining Lease Payments corresponding to the resulting prepayment of the principal portion with respect to this Lease Agreement.

ARTICLE XI

MISCELLANEOUS

Section 11.1. Liability of City Limited. Neither the faith and credit nor the taxing power of the City is pledged to the payment of Lease Payments hereunder. Nevertheless, the City may, but shall not be required to, advance for any of the purposes hereof any funds of the City which may be made available to it for such purposes. The Bonds are not a debt, liability or obligation of the councilmembers of the City or of the City, the Authority, the State of California or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation.

The obligation of the City to make Lease Payments is a special obligation of the City payable solely from Water Revenues and does not constitute a debt liability or obligation of the City or of the State of California or of any political subdivision thereof in contravention of any constitutional or statutory debt limitation or restriction.

Section 11.2. Waiver of Personal Liability. No member, officer, agent or employee of the City or the City shall be individually or personally liable for the payment of Lease Payments hereunder or be subject to any personal liability or accountability by reason of the issuance thereof; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law or by the Assignment Agreement.

Section 11.3. Notices. All notices, certificates or other communications hereunder to the Authority and City shall be sufficiently given and shall be deemed to have been received five (5) business days after deposit in the United States mail in certified form, postage prepaid, to the City or the Authority, as the case may be, at the following addresses:

- If to the City: City of California City
 21000 Hacienda Blvd.
 California City, CA 93505
 Attention: City Manager
- If to the Authority: California City Financing Authority
 21000 Hacienda Blvd.
 California City, CA 93505
 Attention: Executive Director
- If to the U.S.: U.S. Department of Agriculture Rural Utilities Service
- _____
- _____
- Attention: _____

All notices, certificates and other communications to the U.S. shall be sufficiently given and shall be deemed to have been received five (5) days after deposit in the United States mail in registered or certified form, postage prepaid. Notices to the U.S. may be given initially either telephonically or by written telecommunication and shall then be confirmed in writing delivered by certified mail, return receipt requested. The Authority, the City and the U.S., by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 11.4. Binding Effect. This Lease Agreement shall inure to the benefit of and shall be binding upon the Authority and the City and their respective successors and assigns (including without limitation the U.S.).

Section 11.5. Severability. In the event any provision of this Lease Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.6. Execution in Counterparts. This Lease Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.7. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State.

Section 11.8. Captions. The captions or headings in this Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Lease Agreement.

IN WITNESS WHEREOF, the Authority has caused this Lease Agreement to be executed in its name by its duly authorized officers, and the City has caused this Lease Agreement to be executed in its name by its duly authorized officers, as of the date first above written.

CALIFORNIA CITY FINANCING AUTHORITY,
as Lessor

By: _____
Its: Chairman

ATTEST:

Secretary

CITY OF CALIFORNIA CITY, as Lessee

By: _____
Its: Mayor

[SEAL]

ATTEST:

City Clerk

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed under the foregoing to the City of California City, a body corporate and politic, is hereby accepted by the undersigned officer or agent on behalf of the City Council of the City of California City, pursuant to authority conferred by resolution of said City Council adopted on _____, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: November ____, 2006

CITY OF CALIFORNIA CITY

By: _____
Its: Mayor

State of California)
) ss.
County of Kern)

On _____, 2006, before me, _____
(name, title of officer, e.g., "Jane Doe, Notary Public")

personally appeared _____
(name(s) of signer(s))

personally known to me, OR,
 proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity/ies, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which person(s) acted, executed the instrument.

Witness my hand and official seal.

(signature of notary)

State of California)
) ss.
County of Kern)

On _____, 2006, before me, _____
(name, title of officer, e.g., "Jane Doe, Notary Public")

personally appeared _____
(name(s) of signer(s))

- personally known to me, OR,
- proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity/ies, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which person(s) acted, executed the instrument.

Witness my hand and official seal.

(signature of notary)

State of California)
) ss.
County of Kern)

On _____, 2006, before me, _____
(name, title of officer, e.g., "Jane Doe, Notary Public")

personally appeared _____
(name(s) of signer(s))

personally known to me, OR,
 proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity/ies, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which person(s) acted, executed the instrument.

Witness my hand and official seal.

(signature of notary)

State of California)
) ss.
County of Kern)

On _____, 2006, before me, _____
(name, title of officer, e.g., "Jane Doe, Notary Public")

personally appeared _____
(name(s) of signer(s))

- personally known to me, OR,
- proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity/ies, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which person(s) acted, executed the instrument.

Witness my hand and official seal.

(signature of notary)

EXHIBIT A

GENERAL DESCRIPTION OF THE PROJECT

The Water System Improvements consist of those certain water facilities located on the Property, together with structures and improvements provided therefor.

EXHIBIT B

DESCRIPTION OF THE PROPERTY

The Property shall consist of the certain water facilities located on the Property, together with structures and improvements provided therefore located within the boundaries of the City of California City.

EXHIBIT C

SCHEDULE OF LEASE PAYMENTS

<u>Monthly Lease Payment Date</u>	<u>Principal Payment</u>	<u>Coupon</u>	<u>Interest Payment</u>	<u>Debt Service</u>	<u>Total Lease Payment</u>
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ASSIGNMENT AGREEMENT

By and Between

**CALIFORNIA CITY FINANCING AUTHORITY,
Authority**

and

**UNITED STATES OF AMERICA, RURAL UTILITIES SERVICE,
DEPARTMENT OF AGRICULTURE**

Relating to

**LEASE AGREEMENT
(Water System Improvements Project)**

Dated as of May 1, 2006

ASSIGNMENT AGREEMENT

THIS ASSIGNMENT AGREEMENT, made and entered into as of the first day of May, 2006, by and between the California City Financing Authority, a joint powers authority formed under the laws of the State of California (the "Authority") and United States of America, Rural Utilities Service, Department of Agriculture, acting pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et. seq.) (the "United States");

WITNESSETH:

In the joint and mutual exercise of their powers, in consideration of the mutual covenants herein contained, and for other valuable consideration, the parties hereto recite and agree as follows:

Section 1. Recitals of the Authority.

(a) The capitalized terms in this Assignment Agreement shall have the meanings ascribed to them in the Lease Agreement dated as of May 1, 2006 between the Authority and the City of California City (the "City") (the "Lease Agreement").

(b) The Authority and City have entered into the Lease Agreement, whereby the Authority has agreed to construct and sell to City, and the City has agreed to purchase from Authority the Project in the manner and on the terms set forth in the Lease Agreement.

(c) Under the Lease Agreement, the Authority is required to deposit or cause to be deposited with City certain sums of money to be credited, held and applied in accordance with the Lease Agreement.

(d) For the purpose of obtaining the monies required to be deposited by it pursuant to the Lease Agreement, the Authority is willing to assign and transfer substantially all of its rights under the Lease Agreement to the United States, and in consideration of such assignment, the United States is making a Loan to City and pursuant to said Loan and the Lease Agreement deposit with City the Loan proceeds.

(e) Pursuant to the Lease Agreement, City is obligated to pay certain Lease Payments to Authority or its assignee.

Section 2. Recitals of the Authority and the United States. Each of the parties has authority to enter into this Assignment Agreement, and has taken all actions necessary to authorize its officers to enter into it.

Section 3. Assignment. The Authority does hereby absolutely assign and transfer to the United States, all of its right, title and interest under the Lease Agreement, including but not limited to its right to receive the Lease Payments from City under the Lease Agreement; and its right to receive proceeds of condemnation of, and insurance on, the Project; and its right to enforce payment of the Lease Payments when due and otherwise to protect its interests and enforce its rights under the Lease Agreement in the event of a default by City; provided, however, the Authority reserves its rights to indemnification pursuant to Section 423 of the Lease Agreement. The Lease Payments shall

be applied, and the rights so assigned shall be exercised, by the United States as provided in the Lease Agreement.

Section 4. Acceptance. The United States hereby accepts such assignment subject to the provisions of the Lease Agreement.

Section 5. Amendments. This Assignment Agreement shall not be amended except by written instrument duly executed by the parties hereto.

Section 6. Applicable Law. This Assignment Agreement shall be governed by and construed in accordance with the laws of the State of California.

Section 7. Severability. If any one or more of the covenants, stipulations, promises, agreements or obligations provided in this Assignment Agreement on the part of Authority or City to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant, stipulation, promise, agreement or obligation shall be deemed and construed to be severable from the remaining covenants, stipulations, promises, agreements and obligations herein contained and shall in no way affect the validity of the other provisions of this Assignment Agreement.

Section 8. Counterpart. This Assignment Agreement may be executed in counterpart.

IN WITNESS WHEREOF, the parties have executed this Assignment Agreement by their officers thereunto duly authorized as of the day and year first written above.

CALIFORNIA CITY FINANCING AUTHORITY

By: _____
Chairman

By: _____
Secretary

UNITED STATES OF AMERICA, RURAL
UTILITIES SERVICE, DEPARTMENT OF
AGRICULTURE

By: _____
Authorized Representative

**LOAN RESOLUTION
(Public Bodies)**

A RESOLUTION OF THE City Council
OF THE City of California City
AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR
THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING,
CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS
Water

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION T SERVE.

WHEREAS, it is necessary for the City of California City
(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its
bonds in the principal amount of FIVE MILLION AND XX/100
pursuant to the provisions of the laws of the State of California; and

WHEREAS, the Association intends to obtain assistance from the United States Department
of Agriculture, (herein called the government) acting under the provisions of the consolidated Farm
and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of
such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable
purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Agriculture, Clearance Officer, OIRRM, Room 101-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction.

4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provision of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to deface the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the government. Funds may be deposited in institutions insured by the State or Federal government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.
11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.

12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government as a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities, and replacement of short lived assets.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed \$ _____ under the terms offered by the Government; that the _____ City Manager _____ and _____ of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

The vote was; Yeas _____ Nays _____ Absent _____

IN WITNESS WHEREOF, the _____ City Council _____ of the

_____ City of California City _____ has duly adopted this resolution and caused it to be

executed by the officers below in duplicate on this _____ day of _____

_____ City of California City _____

(SEAL)

By _____
Mayor

Title _____

Attest:

Title _____

CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as _____ of the City of California City
hereby certify that the City Council of such Association is composed of
_____ members, of whom _____ constituting a quorum, were present at a meeting thereof duly
called and held on the _____ day of _____; and that the foregoing resolution was adopted at such
meeting by the vote shown above, I further certify that as of _____, the
date of closing of the loan from the United States Department of Agriculture, said resolution remains
in effect and has not been rescinded or amended in any way.

Dated, this _____ day of _____

Title _____

