



TOWN OF APPLE VALLEY TOWN COUNCIL and APPLE VALLEY PUBLIC FINANCING AUTHORITY STAFF REPORT

To: Honorable Mayor and Town Council **Date:** October 9, 2018

From: Doug Robertson, Town Manager **Item No:** 9
Town Manager's Office

Subject: EXECUTION AND DELIVERY OF REVOLVING CREDIT AGREEMENT
RELATING TO A REVOLVING LINE OF CREDIT

T.M. Approval: _____ **Budgeted Item:** Yes No N/A

RECOMMENDED ACTION:

(Apple Valley Town Council)

(Apple Valley Public Financing Authority)

Authorize the Execution and Delivery of a Revolving Credit Agreement Relating to a Revolving Line of Credit and Approve Other Documents and Actions Relating Thereto.

EXECUTIVE SUMMARY:

As brought to Council on July 24, 2018 and August 14, 2018, staff is seeking to put in place a revolving line of credit (RLC) with a qualified bank to provide the Town with financial flexibility. Approval of the actions referenced in the Recommendation above is the final step in a three-step process that began with the approval of the taxable tax and revenue anticipation note ("Taxable Note") issuance at the July 24 Council Meeting.

On July 24, 2018, the Town issued a Taxable Note in the principal amount of \$10,000,000 to the Apple Valley Public Financing Authority (the "Authority") to secure the RLC between the Authority and the bank. Although the resolution adopted on July 24, 2018 allows the Town to issue tax-exempt and/or taxable tax and revenue anticipation notes (with a combined aggregate principal amount not to exceed \$10,000,000), the Town ultimately issued a Taxable Note of \$10,000,000 for Fiscal Year 2018-19 in order to provide better flexibility for the use of proceeds and to avoid any potential tax issues.

On August 14, 2018, Council approved the initial selection of JPMorgan as the provider of the RLC, authorized the Town Manager to negotiate terms with JPMorgan and its counsel, and authorized the estimated bank counsel fee to negotiate terms and develop financing documents. At tonight's meeting, staff is recommending that Town Council and the Board of Directors of the Apple Valley Public Financing Authority approve the execution of the Revolving Credit Agreement with JPMorgan relating to the RLC and approve other related documents and actions.

Before the expiration of the taxable tax and revenue anticipation note on October 1, 2019, the Town will either issue another tax and revenue anticipation note (which would keep the RLC in place and drawn amount outstanding), issue long-term debt to take out the RLC, or pay back the drawn amount and interest from General Fund revenues (and choose to keep the RLC or terminate).

DISCUSSION:

On July 25, 2018, the financing team sent out a Request for Proposal to fifteen (15) banks to provide a revolving line of credit for \$10,000,000. Ultimately, three (3) bids (JPMorgan, Citibank, and Umpqua Bank) were received while the other solicited banks declined based on credit, size of the RLC, and/or structure of the financing.

On August 14, 2018, based on JPMorgan's significant experience in providing liquidity and credit facilities to municipal issuers and the terms of its proposal, staff recommended, and Council approved, the initial selection of JPMorgan as the provider of the RLC, authorized the Town Manager to negotiate terms with JPMorgan, and authorized bank counsel fees to develop financing documents.

The Town, along with its Municipal Advisor (Urban Futures, Inc.) and Note Counsel (Stradling Yocca Carlson & Rauth) have negotiated terms of the RLC with JPMorgan and its counsel. Key aspects of the RLC include:

- 1) Commitment of \$6 million until the defeasance of the 1999 Certificates of Participation (sometime between July 1, 2019 and September 1, 2019), and Commitment of \$10 million thereafter
- 2) Facility Maturity Date of October 1, 2021 with the ability to request an extension prior to January 31, 2021
- 3) Loan Rate on drawn amounts of 1-month LIBOR + 1.675% (Taxable) and 79% of 1-month LIBOR + 1.325% (Tax-Exempt)
- 4) Commitment Fee of 0.275% on undrawn amounts
- 5) Optional Prepayment of Borrowing and Optional Termination of Commitment at any time, subject to terms in the Revolving Credit Agreement

- 6) Should the Town default on the Revolving Credit Agreement, there would be penalties to the Town. All outstanding amounts would be immediately due and payable and would bear interest at the Default Rate (estimated to be 10%). Additionally, this would constitute an event of default under the Lease Agreement (that will become effective upon maturity or defeasance of the 1999 Certificates of Participation), which would allow JPMorgan to re-enter and re-let Town Hall.

The lease/leaseback arrangement is similar to agreements entered into for the 1999 Certificates of Participation. The Town will lease Town Hall to the Authority pursuant to the Site and Facilities Lease, and the Authority will lease Town Hall back to the Town pursuant to the Lease Agreement. The Authority will assign its rights to receive Rental Payments to JPMorgan (pursuant to an Assignment Agreement). The Rental Payments will be capped at the fair rental value of Town Hall (as determined by a Broker's Opinion of Value or Appraisal), and also capped at 15 years after the Facility Maturity Date. This lease arrangement serves as additional assurance to JPMorgan that the Town will make timely payments on the RLC.

- 7) The Town will have certain ongoing reporting requirements as long as the RLC is outstanding.

FISCAL IMPACT:

Based on market conditions as of September 25, 2018, and in accordance with California Government Code Section 5852.1, good faith estimates of the Notes are provided below for the Town and the Authority.

The good faith estimates are based on the following assumptions: 1) not-to-exceed Commitment of \$6 million from closing to maturity of 1999 Certificates of Participation and Commitment of \$10 million thereafter (for taxable advances); 2) 1-month LIBOR remains constant over the next 3 years; 3) 1-month LIBOR of 2.230% (as of 9/25/18) + 1.675% = 3.905% on the drawn amount; 4) 0.275% on the undrawn amount; 5) interest calculated on an ACT/360 basis; 6) draw schedule of \$4.2 million on 10/18/2018, \$1 million on 10/1/2019, and \$1 million on 10/1/2020; 7) no early termination of the RLC and principal repayment of all drawn amounts on 10/1/2021.

Interest Cost: The average annualized percentage rate (APR) is estimated to be 4.09% based on the assumed draw schedule. The average APR is based on the estimated interest cost of the Notes of 3.905% on the drawn amount and 0.275% on the undrawn amount.

Finance Charge: The finance charge of the Notes, which means the sum of all fees and charges paid to third parties (or costs associated with the Notes) is estimated to be \$250,000.

Amount of Proceeds to be Received: The amount of proceeds expected to be received for issuance of the Notes, less the finance charge of the Notes, as estimated above, and any reserves or capitalized interest paid or funded with the proceeds of the Notes, is estimated to be \$5,950,000.

Total Payment Amount: The total payment amount, which means the sum total of all debt service payments on the Notes, plus any finance charge for the Notes not paid with the proceeds of the Notes, calculated to the final maturity of the Notes is estimated to be \$6,840,177. See table below for estimated principal and interest payments.

Date	First Draw: \$4.2 MM		Second Draw: \$1.0 MM		Third Draw: \$1.0 MM		Undrawn Fees	Total
	Principal	Interest (3.905%)	Principal	Interest (3.905%)	Principal	Interest (3.905%)	Interest (0.275%)	
10/18/2018								
10/1/2019	-	158,543.00	-	-	-	-	5,701.67	164,244.67
10/1/2020	-	166,743.50	-	39,700.83	-	-	13,420.00	219,864.33
10/1/2021	4,200,000.00	166,287.92	1,000,000.00	39,592.36	1,000,000.00	39,592.36	10,595.14	6,456,067.78
Total	4,200,000.00	491,574.42	1,000,000.00	79,293.19	1,000,000.00	39,592.36	29,716.81	6,840,176.78

These estimates constitute good faith estimates only and are based on market conditions prevailing at the time of preparation of such estimates. The actual interest cost, finance charge, amount of proceeds received and total payment amount may differ from such good faith estimates due to (a) the actual date of issuance of the Notes being different than the date assumed for purposes of such estimates, (b) the actual draw amounts of the Notes being different than the draw schedule assumed for purposes of such estimates, (c) the actual 1-month LIBOR rates being different than those estimated for purposes of such estimates, (d) other market conditions, or (f) alterations in the Town's financing plan, or a combination of such factors. Market interest rates are affected by economic and other factors beyond the control of the Town.

ACTION REQUESTED OF THE TOWN COUNCIL:

Staff recommends that the Town Council and the Board of Directors of the Apple Valley Public Financing Authority authorize the execution and delivery of a Revolving Credit Agreement relating to a Revolving Line of Credit and approve other documents and actions relating thereto.

ATTACHMENTS:

- 1) Resolution of the Town Council of the Town of Apple Valley, California, Authorizing the Execution and Delivery of a Revolving Credit Agreement Relating to a Revolving Line of Credit and Approving Other Documents and Actions Relating Thereto
- 2) Resolution of the Board of Directors of the Apple Valley Public Financing Authority Authorizing the Execution and Delivery of a Revolving Credit Agreement Relating to a Revolving Line of Credit and Approving Other Documents and Actions Relating Thereto

- 3) Revolving Credit Agreement by and among Apple Valley Public Financing Authority, Town of Apple Valley, California and JPMorgan Chase Bank, National Association
- 4) Lease Agreement by and between Town of Apple Valley and Apple Valley Public Financing Authority
- 5) Site and Facilities Lease by and between Town of Apple Valley and Apple Valley Public Financing Authority
- 6) Assignment Agreement by and between Apple Valley Public Financing Authority and JPMorgan Chase Bank, National Association

RESOLUTION 2018-47

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF A REVOLVING CREDIT AGREEMENT RELATING TO A REVOLVING LINE OF CREDIT AND APPROVING OTHER DOCUMENTS AND ACTIONS RELATING THERETO

WHEREAS, on July 24, 2018, the Town of Apple Valley (the "Town") issued its 2018-19 Taxable Tax and Revenue Anticipation Note in the amount of \$10 million to the Apple Valley Public Financing Authority (the "Authority"); and

WHEREAS, on August 14, 2018, the Town Council approved the initial selection of JPMorgan Chase Bank, National Association (the "Bank") as the provider of a revolving credit agreement among the Authority, the Town and the Bank (the "Revolving Credit Agreement"), and authorized the Town Manager to negotiate terms with the Bank; and

WHEREAS, the Town Council now wishes to approve the Revolving Credit Agreement, as well as other actions and documents necessary to provide for the implementation of the revolving line of credit.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Revolving Credit Agreement. The Revolving Credit Agreement, in substantially the form attached hereto as Exhibit A, and upon execution as authorized below, made a part hereof as though set forth in full herein, is hereby approved. The Mayor, Mayor Pro Tem, or the Town Manager or the designee thereof is hereby authorized and directed to execute and deliver the Revolving Credit Agreement with such changes, insertions and omissions as may be recommended by the Town Attorney or Stradling Yocca Carlson & Rauth, a Professional Corporation, as Bond Counsel ("Bond Counsel"), and approved by the officers executing the same, said execution being conclusive evidence of such approval.

Section 2. Lease Agreement. The Lease Agreement to be entered into by and between the Authority and the Town (the "Lease"), in substantially the form attached hereto as Exhibit B, and upon execution as authorized below, made a part hereof as though set forth in full herein, is hereby approved. The Mayor, Mayor Pro Tem, or the Town Manager or the designee thereof is hereby authorized and directed to execute and deliver the Lease with such changes, insertions and omissions as may be recommended by the Town Attorney or Bond Counsel, and approved by the officers executing the same, said execution being conclusive evidence of such approval.

Section 3. Site and Facilities Lease. The Site and Facilities Lease to be entered into by and between the Town and the Authority (the "Site Lease"), in substantially the form attached hereto as Exhibit C, and upon execution as authorized below, made a part hereof as though set forth in full herein, is hereby approved. The Mayor, Mayor Pro Tem, or the Town Manager or the designee thereof is hereby authorized and directed to execute and deliver the Site Lease with such changes, insertions and omissions as may be recommended by the Town Attorney or Bond Counsel, and approved by the officers executing the same, said execution being conclusive evidence of such approval.

Section 4. Engagement of Consultants. The Mayor, Mayor Pro Tem, or the Town Manager or the designee thereof is hereby authorized and directed to execute and deliver engagement letters with Bond Counsel and Urban Futures, Inc. (the "Municipal Advisor") in form and substance acceptable to the Town Attorney and the officers executing the same.

Section 5. General Authorization. The Mayor, Mayor Pro Tem, the Town Manager, the Finance Director or the designee thereof and any other proper officer of the Town, acting singly, is authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper to effectuate the continuation of the Revolving Credit Agreement, the Lease, the Site Lease and this resolution, and such actions previously taken by such officers are hereby ratified, confirmed and approved.

Section 6. Certified Copies. The Town Clerk shall provide a certified copy of this document to the Director of Finance who shall take such action as shall be necessary to assure compliance by the Town with the terms and conditions hereof.

Section 7. Effective Date. This resolution shall take effect immediately.

APPROVED and **ADOPTED** by the Town Council of the Town of Apple Valley this 9th day of October, 2018.

Town of Apple Valley, California

BY: _____
Art Bishop, Mayor

ATTEST:

La Vonda M-Pearson, Town Clerk

RESOLUTION NO. PFA 2018-03

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE APPLE VALLEY PUBLIC FINANCING AUTHORITY AUTHORIZING THE EXECUTION AND DELIVERY OF A REVOLVING CREDIT AGREEMENT RELATING TO A REVOLVING LINE OF CREDIT AND APPROVING OTHER DOCUMENTS AND ACTIONS RELATING THERETO

WHEREAS, on July 24, 2018, the Town of Apple Valley (the "Town") issued its 2018-19 Taxable Tax and Revenue Anticipation Note in the amount of \$10 million to the Apple Valley Public Financing Authority (the "Authority"); and

WHEREAS, on August 14, 2018, the Town Council approved the initial selection of JPMorgan Chase Bank, National Association (the "Bank") as the provider of a revolving credit agreement among the Authority, the Town and the Bank (the "Revolving Credit Agreement"), and authorized the Town Manager to negotiate terms with the Bank; and

WHEREAS, the Town has requested that the Authority assist the Town in connection with the consummation of the Revolving Credit Agreement.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE APPLE VALLEY PUBLIC FINANCING AUTHORITY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Revolving Credit Agreement. The Revolving Credit Agreement, in substantially the form attached hereto as Exhibit A, and upon execution as authorized below, made a part hereof as though set forth in full herein, is hereby approved. The Chair, Vice Chair, or the Executive Director or the designee thereof is hereby authorized and directed to execute and deliver the Revolving Credit Agreement with such changes, insertions and omissions as may be recommended by the Authority Counsel or Stradling Yocca Carlson & Rauth, a Professional Corporation, as Bond Counsel ("Bond Counsel"), and approved by the officers executing the same, said execution being conclusive evidence of such approval.

Section 2. Lease Agreement. The Lease Agreement to be entered into by and between the Authority and the Town (the "Lease"), in substantially the form attached hereto as Exhibit B, and upon execution as authorized below, made a part hereof as though set forth in full herein, is hereby approved. The Chair, Vice Chair, or the Executive Director or the designee thereof is hereby authorized and directed to execute and deliver the Lease with such changes, insertions and omissions as may be recommended by the

Authority Counsel or Bond Counsel, and approved by the officers executing the same, said execution being conclusive evidence of such approval.

Section 3. Site and Facilities Lease. The Site and Facilities Lease to be entered into by and between the Authority and the Town (the "Site Lease"), in substantially the form attached hereto as Exhibit C, and upon execution as authorized below, made a part hereof as though set forth in full herein, is hereby approved. The Chair, Vice Chair, or the Executive Director or the designee thereof is hereby authorized and directed to execute and deliver the Site Lease with such changes, insertions and omissions as may be recommended by the Authority Counsel or Bond Counsel, and approved by the officers executing the same, said execution being conclusive evidence of such approval.

Section 4. Assignment Agreement. The Assignment Agreement to be entered into by and between the Authority and the Bank (the "Assignment Agreement"), in substantially the form attached hereto as Exhibit D, is hereby approved. The Chair, Vice Chair, the Executive Director, the Treasurer or the designee thereof is hereby authorized and directed to execute and deliver the Assignment Agreement with such changes, insertions and omissions as may be recommended by the Authority Counsel or Bond Counsel, and approved by the officers executing the same, said execution being conclusive evidence of such approval.

Section 5. Engagement of Consultants. The Chair, Vice Chair, the Executive Director, the Treasurer or the designee thereof is hereby authorized and directed to execute and deliver engagement letters with Bond Counsel and Urban Futures, Inc. (the "Municipal Advisor") in form and substance acceptable to Authority Counsel and the officers executing the same.

Section 6. General Authorization. The Chair, Vice Chair, the Executive Director, the Treasurer or the designee thereof and any other proper officer of the Authority, acting singly, is authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper to effectuate the continuation of the Revolving Credit Agreement, the Lease, the Site Lease, the Assignment Agreement and this resolution, and such actions previously taken by such officers are hereby ratified, confirmed and approved.

Section 7. Good Faith Estimates. The Board of Directors acknowledges that the good faith estimates required by Section 5852.1 of the California Government Code are disclosed in the staff report and are available to the public at the meeting at which this resolution is approved.

Section 8. Certified Copies. The Secretary of the Board shall provide a certified copy of this document to the Treasurer who shall take such action as shall be necessary to assure compliance by the Town with the terms and conditions hereof.

Section 9. Effective Date. This resolution shall take effect immediately.

APPROVED and **ADOPTED** this 9th day of October, 2018.

Apple Valley Public Financing Authority

BY: _____
Chair

ATTEST:

Secretary

REVOLVING CREDIT AGREEMENT

Dated as of October __, 2018

by and among

APPLE VALLEY PUBLIC FINANCING AUTHORITY,

TOWN OF APPLE VALLEY, CALIFORNIA

and

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

TABLE OF CONTENTS

SECTION	HEADING	PAGE
ARTICLE I	DEFINITIONS AND ACCOUNTING TERMS	15
Section 1.01.	Defined Terms	15
Section 1.02.	Other Interpretive Provisions	29
Section 1.03.	Accounting Terms.....	29
Section 1.04.	Rounding.....	30
Section 1.05.	Times of Day.....	30
Section 1.06.	Incorporated Agreement Provisions	30
ARTICLE II	THE CREDIT	30
Section 2.01.	Commitment to Lend	30
Section 2.02.	Method of Borrowing; Account to Which Proceeds of Loans to Be Credited	31
Section 2.03.	The Notes	32
Section 2.04.	Maturity of Loans	33
Section 2.05.	Interest Rates.....	33
Section 2.06.	Fees	34
Section 2.07.	Optional Termination or Reduction of Commitment.....	35
Section 2.08.	Mandatory Termination or Reduction of Commitment	36
Section 2.09.	Optional Prepayments; Funding Indemnity	36
Section 2.10.	General Provisions as to Payments	36
Section 2.11.	Computation of Interest and Fees	37
Section 2.12.	Security	37
Section 2.13.	Adjustment of Base Rental Payments.....	37
ARTICLE III	TAXES, YIELD PROTECTION, AND ILLEGALITY.....	38
Section 3.01.	Taxes	38
Section 3.02.	Increased Costs	39
Section 3.03.	Illegality; Inability to Determine Rates.....	40
Section 3.04.	Determination of Taxability.....	41
Section 3.05.	Survival	42
ARTICLE IV	CONDITIONS.....	42
Section 4.01.	Effectiveness	42
Section 4.02.	Taxable Borrowings During the Revolving Credit Period	44
Section 4.03.	Initial Tax-Exempt Loan Borrowings.....	44
Section 4.04.	Subsequent Tax-Exempt Loan Borrowings	45
ARTICLE V	REPRESENTATIONS AND WARRANTIES.....	46

Section 5.01.	Representations of the Town	46
Section 5.02.	Representations of Authority	51
ARTICLE VI	AFFIRMATIVE COVENANTS	54
Section 6.01.	Affirmative Covenants.....	54
ARTICLE VII	NEGATIVE COVENANTS	62
ARTICLE VIII	EVENTS OF DEFAULT AND REMEDIES	64
Section 8.01.	Events of Default and Remedies.....	64
Section 8.02.	Effect of Event of Default.....	66
Section 8.03.	Right of Setoff.....	66
ARTICLE XI	MISCELLANEOUS	66
Section 9.01.	Amendments, Etc.....	66
Section 9.02.	Notices	67
Section 9.03.	No Waiver; Cumulative Remedies; Enforcement; Conflict	68
Section 9.04.	Indemnification	69
Section 9.05.	Payments Set Aside.....	70
Section 9.06.	Successors and Assigns.....	70
Section 9.07.	Counterparts; Integration; Effectiveness.....	71
Section 9.08.	Survival of Representations and Warranties.....	71
Section 9.09.	Severability	71
Section 9.10.	Governing Law	71
Section 9.11.	Waiver of Jury Trial.....	71
Section 9.12.	No Advisory or Fiduciary Responsibility.....	73
Section 9.13.	Electronic Execution of Assignments and Certain Other Documents	73
Section 9.14.	Government Regulations	74
Section 9.15.	Unconditional Obligations	74
Section 9.16.	Expenses and Taxes	75
Section 9.17.	Modification, Amendment, Waiver, Etc.....	75
Section 9.18.	Dealing with the Town and the Authority	75
Section 9.19.	Table of Contents; Headings.....	75

Exhibit A	—	Notice of Borrowing
Exhibit B	—	Form of Notice of Change of Lender Account
Exhibit C	—	Form of Taxable Note

- Exhibit D — Form of Tax-Exempt Note
- Exhibit E — Form Compliance Certificate

REVOLVING CREDIT AGREEMENT

This REVOLVING CREDIT AGREEMENT (as amended, modified, restated or supplemented from time to time, this “*Agreement*”) is dated as of October __, 2018, by and among THE TOWN OF APPLE VALLEY, CALIFORNIA, a municipal corporation of the State of California (the “*Town*”), the APPLE VALLEY PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority duly organized and existing under the hereinafter defined Act (the “*Authority*”), and JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, a national banking association, as lender (together with its successors and assigns, the “*Lender*”).

WITNESSETH:

WHEREAS, the Authority, on behalf of the Town, has requested that the Lender make revolving loans available to the Authority from time to time on a taxable and tax-exempt basis;

WHEREAS; Lender has agreed to make such revolving loans, on the terms and conditions set forth herein, to the Authority; and

NOW, THEREFORE in consideration of the mutual promises, covenants and conditions contained herein, each of the Authority, the Town and the Lender hereby agrees as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

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

“*Act*” means Articles I through IV (commencing with section 6500) of Chapter 5 of Division 7 of Title I of the California Government Code, as amended from time to time.

“*Additional Rental Payments*” shall have the meaning set forth in the Lease Agreement.

“*Affiliate*” means, with respect to a Person, any Person, which “controls,” or is “controlled” by, or is under common “control” with such Person. For purposes of this definition, a Person “controls” another Person when the first Person possesses or exercises directly, or indirectly through one or more other affiliates or related entities, the power to direct the management and policies of the other Person, whether through the ownership of voting rights, membership, the power to appoint members, trustees or directors, by contract, or otherwise.

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

“*Alternate Base Rate*” means, for any day, a rate per annum equal to the greater of (a) the Prime Rate in effect on such day and (b) the Federal Funds Effective Rate in effect on such day plus one-half of one percent (0.50%). Any change in the Alternate Base Rate due to a change in

the Prime Rate or the Federal Funds Effective Rate shall be effective from and including the effective date of such change in the Prime Rate or the Federal Funds Effective Rate, respectively. For the avoidance of doubt, if the Alternate Base Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“*Anti-Corruption Laws*” means all laws, rules, and regulations of any jurisdiction applicable to Authority or the Town, or any of their respective Affiliates from time to time, concerning or relating to bribery or corruption.

“*Applicable Factor*” means seventy nine percent (79%).

“*Applicable Spread*” means a rate per annum as specified below:

	APPLICABLE
APPLICABLE	SPREAD FOR
SPREAD FOR	TAX-EXEMPT
TAXABLE LOANS	LOANS
1.675%	1.325%

“*Assignment Agreement*” means the Assignment Agreement to be dated and effective on the Lease Effective Date (or such other date approved in writing by the Lender in its sole discretion), between the Authority, as assignor, and the Lender, as assignee, as amended, supplemented, modified or restated from time to time.

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

“*Authority Resolution*” means (i) the Resolution of the Authority’s Board of Directors adopted on October 9, 2018, authorizing the issuance of Notes and the Authority’s entry into this Agreement and the other Related Documents and (ii) all other resolutions adopted by the Authority’s Board of Directors after Effective Date relating to the Loans, the Notes and/or the Obligations hereunder.

“*Authorized Officer*” means any person authorized from time to time in writing by the Authority or the Town, as applicable, or such person’s successors and assigns, to perform a designated act or execute a designated document.

“*Authority JPA*” means that certain Joint Exercise of Powers Agreement, dated August 10, 1999, by and between the Town and the Redevelopment Agency of the Town of Apple Valley, as the same may be amended from time to time.

“*Base Rental Payments*” has the meaning set forth in the Lease Agreement.

“*Borrowing*” means a borrowing hereunder consisting of a Loan to be made to the Authority by the Lender pursuant to Article IV hereof.

“*Business Day*” means a day on which (a) banks located in Los Angeles, California, in New York, New York and in each of the cities in which the principal offices of the Lender are located are not required or authorized by law or executive order to close for business, and (b) The New York Stock Exchange is not closed.

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

“*Change in Law*” means the occurrence, after the Effective Date, of any of the following: (a) the adoption or taking effect of any Law, including, without limitation, Risk-Based Capital Guidelines, (b) any change in any Law or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, ruling, guideline, regulation or directive (whether or not having the force of law) by any Governmental Authority; *provided* that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, ruling, guidelines, regulations or directives thereunder or issued in connection therewith and (ii) all requests, rules, rulings, guidelines, regulations or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States of America or foreign regulatory authorities shall in each case be deemed to be a “Change in Law,” regardless of the date enacted, adopted or issued.

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

“*Commitment*” means the amount of \$10,000,000, as such amount may be reduced from time to time pursuant to Sections 2.07, 2.08 and 8.02 hereof. Notwithstanding the foregoing, the Commitment shall be \$6,000,000 until (i) the Lease Effective Date shall have occurred and (ii) the Lender has provided written confirmation to the Authority and the Town that the conditions and covenants set forth in Section 6.01(t) hereof have been satisfied in the sole and absolute discretion of the Lender.

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

“*Computation Date*” means the date two London Business Days preceding the first Business Day of each month.

“*Congressional Lease*” means _____.

“*Congressional Lease Subordination Agreement*” means the Tenant Estoppel, Assignment and Subordination of Lease and Rents or similar instrument(s) in form and substance satisfactory

to the Lender which the Lender in its discretion requires to be executed by the parties to the Congressional Lease prior to the earlier of (a) the Lease Effective Date and (b) any renewal, amendment, extension or replacement of the Congressional Lease.

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

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

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

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

“*Default Rate*” shall mean, for any day, and with respect to any Obligation, a rate of interest per annum equal to the greater of (a) the Alternate Base Rate plus the Applicable Spread plus three percent (3.0%) per annum and (b) 10% per annum.

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

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

(ii) on the date when the Lender notifies the Authority and the Town that it has received a written opinion by a nationally recognized firm of attorneys of substantial expertise on the subject of tax-exempt municipal finance to the effect that an Event of Taxability shall have occurred unless, within one hundred eighty (180) days after receipt

by the Authority and/or the Town of such notification from the Lender, the Authority and/or the Town shall deliver to the Lender a ruling or determination letter issued to or on behalf of the Authority or the Town by the Commissioner of the Internal Revenue Service or the Director of Tax-Exempt Bonds of the Tax-Exempt and Government Entities Division of the Internal Revenue Service (or any other government official exercising the same or a substantially similar function from time to time) to the effect that, after taking into consideration such facts as form the basis for the opinion that an Event of Taxability has occurred, an Event of Taxability shall not have occurred;

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

(iv) on the date when the Authority and/or the Town shall receive notice from the Lender that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed as includable in the gross income of the Lender the interest on the Tax-Exempt Note and/or the Tax-Exempt Loans due to the occurrence of an Event of Taxability;

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

“*Effective Date*” means October __, 2018, subject to the satisfaction, or waiver, of all of the conditions precedent set forth in Section 4.01 hereof.

“*Enterprise Funds*” means the Town’s Wastewater Fund-5010 (Sewer) and the Town’s Solid Waste Fund-5510 (Trash).

“*Environmental Laws*” means any and all Federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

“*Environmental Regulation*” means any federal, state, or local statute, law, rule, regulation, ordinance, code, policy, or rule of common law now or hereafter in effect and in each

case as amended, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree, or judgment, relating to health, safety, or the environment or to Hazardous Materials (as hereinafter defined), including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. Section 9601, *et seq.*) (together with the regulations promulgated thereunder, “CERCLA”), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, *et seq.*) (together with the regulations promulgated thereunder, “RCRA”), the Emergency Planning and Community Right-to-Know Act, as amended (42 U.S.C. Section 11001, *et seq.*) (together with the regulations promulgated thereunder, “Title III”), the Clean Water Act, as amended (33 U.S.C. Section 1321, *et seq.*) (together with the regulations promulgated thereunder, “CWA”), the Clean Air Act, as amended (42 U.S.C. Section 7401, *et seq.*) (together with the regulations promulgated thereunder, “CAA”), the Toxic Substances Control Act, as amended (15 U.S.C. Section 2601 *et seq.*) (together with the regulations promulgated thereunder, “TSCA”), the Occupational Health and Safety Act of 1970, as amended (29 U.S.C. Section 651, *et seq.*) (together with the regulations promulgated thereunder, “OSHA”), the California Superfund Statute, California Health & Safety Code Section 25300 *et seq.*, legislation promulgated pursuant to the California Safe Drinking Water and Toxic Enforcement Act of 1986 (“*Proposition 65*”), California Health & Safety Code Section 25249.5 *et seq.*, Environmental Protection Agency regulations pertaining to asbestos, including 40 C.F.R. Part 61, Subpart M, and any similar state or local laws and regulations and any so-called local, state or federal “superfund” or “superlien” law.

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

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

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

“*Excess Interest Amount*” has the meaning set forth in Section 2.05(d)(ii) hereof.

“*Excluded Taxes*” means, with respect to Section 3.01 hereof, any of the following Taxes imposed on or with respect to the Lender or required to be withheld or deducted from a payment

to the Lender: (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of the Lender being organized under the laws of, or having its principal office or its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, and (b) U.S. federal withholding Taxes imposed on amounts payable to or for the account of the Lender with respect to an applicable interest in the Loan pursuant to a law in effect on the date on which (i) the Lender acquires such interest in the Loan, or (ii) the Lender changes its lending office, except in each case to the extent that, pursuant to Section 3.01, amounts with respect to such Taxes were payable either to the Lender's assignor immediately before the Lender acquired the applicable interest in the Loan or to the Lender immediately before it changed its lending office.

"Facility Maturity Date" means October __, 2021, or, if such day is not a Business Day, the next succeeding Business Day unless such Business Day falls in another calendar month, in which case the Facility Maturity Date shall be the next preceding Business Day.

"Federal Funds Effective Rate" means, for any day, the rate calculated by the NYFRB based on such day's federal funds transactions by depository institutions, as determined in such manner as the NYFRB shall set forth on its public website from time to time and published on the next succeeding Business Day by the NYFRB as the federal funds effective rate.

"Fitch" means Fitch, Inc. and any successor rating agency.

"GAAP" means generally accepted accounting principles in the United States as in effect from time to time, applied by the Town on a basis consistent with the Town's most recent financial statement furnished to the Lender.

"General Fund" means the general fund of the Town – Account 1001.

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

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

"Guarantees" of or by any Person (the *"guarantor"*) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Debt or other obligation of any other Person (the *"primary obligor"*) in any manner, whether directly or indirectly, and including, without limitation, any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for

the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Debt or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Debt or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Debt or obligation; *provided*, that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business.

“Indemnified Taxes” means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Authority or the Town under this Agreement and (b) to the extent not otherwise described in the foregoing clause (a), Other Taxes.

“Interest Payment Date” means with respect to any Loan, the first Business Day of each calendar month, the Loan Maturity Date and such earlier date on which all Loans or the related Loan is required to be paid in full in accordance with the terms hereof.

“Investment Policy” means the investment policy of the Town delivered to the Lender on or prior to the Effective Date, or any revision thereof delivered to the Lender pursuant to Section 4.01(i) hereof.

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

“Lease Agreement” means the Lease Agreement to be dated and effective on the Lease Effective Date (or such later date approved in writing by the Lender in its sole discretion), between the Authority, as sublessee, and the Town, as sublessor, as amended, supplemented, modified or restated from time to time in accordance with the terms thereof and hereof.

“Lease Documents” means the Lease Agreement, the Assignment Agreement, the Site Lease and the Memorandum of Lease and the Congressional Lease Subordination Agreement (only if the Congressional Lease is still in effect as of the Lease Effective Date), each as amended, supplemented, modified or restated from time to time in accordance with the terms thereof and hereof.

“Lease Effective Date” means the date on which the 1999 Certificates of Participation have been paid in full, defeased or deemed to have been paid in full.

“Leased Property” has the meaning as the term “Property” as defined in the Lease Agreement.

“*Legally Available Funds*” means all unrestricted funds of the Town in the General Fund, including any funds received by the General Fund from an Enterprise Fund pursuant to an interfund loan authorized by the Town Council to transfer and use such funds to pay the Notes and the related Loans and all other Obligations.

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

“*Lending Office*” means the office of the Lender to which notices of Borrowings and other notices hereunder shall be given and to which payments of amounts due hereunder and under the Notes shall be made, which office (and any changes thereto) shall be communicated promptly by the Lender to the Authority and the Town at its respective address specified in or pursuant to Section 8.01 hereof.

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

“*LIBOR Rate*” means, for any day and time, the London interbank offered rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate for Dollars) for a one-month period as displayed at approximately 11:00 a.m., London time, on pages LIBOR01 or LIBOR02 of the Reuters screen that displays such rate (or, in the event such rate does not appear on a Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time as selected by the Lender in its reasonable discretion); *provided* that if LIBOR shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

“*LIBOR Reset Date*” means the first Business Day of each month.

“*Loan*” means a Loan to be made by the Lender in accordance with the applicable Notice of Borrowing.

“*Loan Maturity Date*” means the date a Loan shall mature and be due, which date shall be specified by the Authority in the Notice of Borrowing for such Loan; *provided* that in no event shall the Loan Maturity Date for a Loan be later than the Facility Maturity Date.

“*Loan Rate*” means, with respect to (i) the Taxable Loans and the Taxable Note, the rate of interest determined pursuant to 2.05(a) hereof and (ii) the Tax-Exempt Loans and the Tax-Exempt Note, the rate of interest determined pursuant to Section 2.05(b) hereof.

“*London Business Day*” means any day that is a day for trading by and between banks in Dollar deposits in the London interbank market.

“Material Adverse Change” or *“Material Adverse Effect”* means any event that (i) causes a material adverse change in or a material adverse effect on (a) the validity or enforceability of any of the Related Documents, (b) the validity, enforceability or perfection of the pledge of and lien on the TRANS Payments to secure the payment of principal and interest on the Notes or the Loans, (c) any of the rights, security, interest or remedies available to the Lender under this Agreement or the other Related Documents, or (d) could reasonably be expected to have a material adverse effect on the ability of the Town or the Authority to timely perform its respective obligations under the Related Documents.

“Maximum Fair Rental Value” means the maximum annual fair rental value then applicable to the Lease Property during the applicable Rental Period.

“Maximum Federal Corporate Tax Rate” means, for any day, the maximum rate of income taxation imposed on corporations pursuant to Section 11(b) of the Code, as in effect as of such day (or, if as a result of a change in the Code, the rate of income taxation imposed on corporations generally shall not be applicable to the Lender, the maximum statutory rate of federal income taxation which could apply to the Lender as of such day).

“Maximum Rate” means the maximum non-usurious lawful rate of interest permitted by applicable law, currently 12% per annum with respect to the Authority and the Town.

“Memorandum of Lease” means the Memorandum of Lease to be dated and effective on the Lease Effective Date (or such other date approved in writing by the Lender in its sole discretion), between the Authority, as sublessee, and the Town, as sublessor, as amended, supplemented, modified or restated from time to time.

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

“1999 Certificates of Participation” means the Variable Rate Demand Certificates of Participation (1999 Public Facilities Financing Project), evidencing direct, undivided fractional interests of the owners thereof in lease payments made by the Town as rental for certain property pursuant to a lease agreement with the Authority.

“Note Counsel” means Stradling, Yocca, Carlson & Rauth, a Professional Corporation, or any other firm of attorneys nationally recognized on the subject of tax-exempt municipal finance selected by the Town.

“NYFRB” means the Federal Reserve Bank of New York.

“Noteholder” means, initially, the Lender and, thereafter, any other Person that owns an interest in any of the Loans and the Notes.

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

“Notice of Borrowing” has the meaning set forth in Section 2.02(a)(i) hereof.

“*Obligations*” means all amounts payable by the Authority or the Town, and all other obligations to be performed by the Authority or the Town, pursuant to this Agreement and the other Related Documents (including any amounts to reimburse the Lender for any advances or expenditures by it under any of such documents), including, without limitation, the outstanding principal of, interest on, and premium, if any, on the Loans, as evidenced by the Notes.

“*OFAC*” means the U.S. Department of the Treasury’s Office of Foreign Assets Control, and any successor thereto.

“*Other Connection Taxes*” means, with respect to the Lender, Taxes imposed as a result of a present or former connection between the Lender and the jurisdiction imposing such Taxes (other than a connection arising from the Lender having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to, or enforced, any Related Document), or sold or assigned an interest in the Loans or any Related Document.

“*Other Taxes*” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Related Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment.

“*PBGC*” means the Pension Benefit Guaranty Authority or any Person succeeding to any or all of its functions under ERISA.

“*Permitted Encumbrances*” has the meaning set forth in the Lease Agreement.

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

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

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

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

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

“*Reduction Fee*” has the meaning set forth in Section 2.07(c) hereof.

“*Related Documents*” means this Agreement, the Notes, the TRANs Act, the Authority JPA, each of the Resolutions, the Tax and Revenue Anticipation Notes, the Tax Certificate, the Lease Documents and any other agreement or instrument relating thereto.

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

“*Rental Period*” has the meaning set forth in the Lease Agreement.

“*Reserve Fund*” means an account maintained with the Lender or a depository bank selected by the Lender.

“*Resolutions*” means the Authority Resolution and the Town Resolution.

“*Revolving Credit Period*” means the period from and including the Effective Date to and including the Termination Date.

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

“*Sanctioned Country*” means, at any time, a country, region or territory which is the subject or target of any Sanctions (at the time of this Agreement, Crimea, Cuba, Iran, North Korea, Sudan and Syria).

“*Sanctioned Person*” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, or (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b).

“*Sanctions*” means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State.

“*S&P*” means S&P Global Ratings, a Standard & Poor’s Financial Services LLC business, and any successor rating agency.

“*Site Lease*” means the Site Lease to be dated and effective on the Lease Effective Date (or such other date approved in writing by the Lender in its sole discretion), between the Town, as lessee, and the Authority, as lessor, as amended, supplemented, modified or restated from time to time in accordance with the terms thereof and hereof.

“*State*” means the State of California.

“*Supplemental Tax Certificate*” means a supplemental tax certificate delivered by the Authority in connection with any Tax-Exempt Loan (other than the initial Tax-Exempt Loan) and the Tax-Exempt Note substantially in the form of the Tax Certificate or such other form as Note Counsel may require, as the same may be amended, supplemented or modified from time to time in accordance with the terms hereof and thereof.

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

“*Taxable Date*” means the date on which interest on the Tax-Exempt Note and/or the Tax-Exempt Loans evidenced thereby is first includable in gross income of the Lender as a result of an Event of Taxability as such a date is established pursuant to a Determination of Taxability.

“*Taxable Period*” has the meaning set forth in Section 3.04 hereof.

“*Taxable Rate*” means, for each day, a rate of interest per annum equal to the product of (i) the interest rate on the Tax-Exempt Note and/or the Tax-Exempt Loans evidenced thereby for such day and (ii) the applicable Taxable Rate Factor.

“*Taxable Rate Factor*” means, for each day that the Taxable Rate is determined, the quotient of (i) one *divided by* (ii) one minus the Maximum Federal Corporate Tax Rate in effect as of such day, rounded upward to the second decimal place.

“*Taxable Loan*” means a Loan the interest on which is included in gross income for federal income tax purposes.

“*Taxable Note*” means the Note of the Authority substantially in the form set forth in Exhibit C hereto, evidencing the obligation of the Authority to repay the Loans which are Taxable Loans and interest thereon, issued pursuant to the Authority Resolution and in accordance with the terms of this Agreement.

“*Tax and Revenue Anticipation Notes*” or “*TRANS*” means (i) the Town of Apple Valley, California 2018-2019 Tax and Revenue Anticipation Note issued by the Town in accordance of the Town Resolution, and (ii) all other similarly secured tax and revenue anticipation notes issued by the Town to the Authority and pledged to the Lender pursuant to the terms hereof.

“*Tax Certificate*” means the Tax Compliance Certificate dated October __, 2018, by the Authority, relating to the initial Tax-Exempt Loan and, if approved by Note Counsel, any subsequent Tax-Exempt Loans and the Tax-Exempt Note, evidencing such Tax-Exempt Loans, as the same may be amended, supplemented or modified from time to time in accordance with the terms hereof and thereof.

“*Taxes*” means all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees, or other charges imposed by any Governmental Authority, including any interest, additions to tax, or penalties applicable thereto.

“*Tax-Exempt Loan*” means a Loan the interest on which is excluded from gross income for federal income tax purposes.

“*Tax-Exempt Note*” means the Note of the Authority substantially in the form set forth in Exhibit D hereto, evidencing the obligation of the Authority to repay the Loans which are Tax-Exempt Loans and interest thereon, issued under the Authority Resolution and in accordance with the terms of this Agreement.

“*Termination Fee*” has the meaning set forth in Section 2.07(b) hereof.

“*Termination Date*” means the Facility Maturity Date or, if earlier, the date on which the Commitment is terminated or permanently reduced to zero in accordance with the terms hereof.

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

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

“*TRANS Payments*” means the principal and interest due and/or payable under the applicable Tax and Revenue Anticipation Notes in the applicable fiscal year to pay the obligations under this Agreement.

“*Town Resolution*” means (i) the Resolution of the Town’s Council; adopted on July 24, 2018, authorizing the issuance of the TRANS securing the Notes and (ii) all other resolutions adopted by the Town’s Council after Effective Date authorizing the issuance of TRANS relating to and/or securing the Notes and/or the Obligations hereunder.

“United States” and “U.S.” mean the United States of America.

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

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

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

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

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

Section 1.03. Accounting Terms. (a) *Generally.* All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect

from time to time, applied in a manner consistent with that used in preparing the financial statements, except as otherwise specifically prescribed herein.

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

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

Section 1.05. Times of Day. Unless otherwise specified, all references herein to times of day shall be references to New York time (daylight or standard, as applicable).

Section 1.06. Incorporated Agreement Provisions. Any covenants and agreements of the Town herein and in the Related Documents which the Town is a party and which are incorporated by reference herein (including all such covenants and agreements specified in the exhibits, schedules and defined terms referred to in the Related Document) shall survive any termination, cancellation, discharge or replacement of such Related Document.

ARTICLE II

THE CREDIT

Section 2.01. Commitment to Lend.

(a) *Loans.* During the Revolving Credit Period, the Lender agrees, on the terms and conditions set forth in this Agreement, to make revolving loans to the Authority pursuant to this Section from time to time in amounts such that the aggregate principal amount of Loans by the Lender at any one time outstanding shall not exceed the amount of the Commitment. Within the foregoing limit, the Authority may borrow under this subsection (a), repay or, to the extent permitted by Section 2.09 hereof, prepay, the Loans and re-borrow at any time during the Revolving Credit Period under this subsection (a).

(b) *Extension of Revolving Credit Period.* (i) No later than ninety (90) days prior to the Facility Maturity Date, the Authority and/or the Town may request the Lender extend the then current Facility Maturity Date. If the Lender, in its sole discretion, elects to extend the Facility

Maturity Date then in effect, the Lender shall deliver to the Authority and the Town within sixty (60) days of receiving said request a written notice of extension (herein referred to as a “*Notice of Extension*”) designating the date to which the Facility Maturity Date is being extended. Such extension of the Facility Maturity Date shall be effective, after receipt by the Authority and the Town of such Notice of Extension, on the Business Day following the date of delivery of such Notice of Extension, and thereafter all references in this Agreement to the Facility Maturity Date shall be deemed to be references to the date designated as such in the most recent Notice of Extension delivered to the Authority. Any date to which the Facility Maturity Date has been extended in accordance with this Section 2.01(b) may be extended in like manner. If the Lender fails to provide the Authority and the Town with a Notice of Extension as provided hereinabove, the Lender shall be deemed not to have consented to the Authority’s and/or the Town’s request. The Lender shall use commercially reasonable efforts to promptly notify the Authority and the Town if it will not extend the Facility Maturity Date, but the Lender’s failure to do so shall be deemed a denial of the extension request.

(ii) Notwithstanding the foregoing, it is understood and agreed that the foregoing provisions are intended for the convenience of the parties only and shall in no respect prohibit the parties from agreeing to extend the Facility Maturity Date under other circumstances or at other times. In the event the Facility Maturity Date is extended under any other circumstances, the Lender shall give prompt written notice thereof to the Authority and the Town.

(iii) If the Facility Maturity Date is extended, whether pursuant to subsection (i) above or otherwise, the Authority and the Town shall be deemed to have made the representations and warranties contained herein on the date on which the Facility Maturity Date is so extended.

Section 2.02. Method of Borrowing; Account to Which Proceeds of Loans to Be Credited.

(a) With respect to any Borrowing, the Authority shall give the Lender notice in the form of Exhibit A hereto, executed by an Authorized Officer of the Authority (a “*Notice of Borrowing*”), by not later than 11:00 a.m. (New York time) on the third Business Day before each Borrowing (or such shorter time as the Lender may agree), specifying:

(A) the date of such Borrowing, which shall be a Business Day,

(B) the aggregate amount of such Borrowing (which shall not exceed the difference between (i) the amount of the Commitment and (ii) the aggregate principal amount of Loans then outstanding),

(C) whether such Borrowing will be a Taxable Loan or a Tax-Exempt Loan, and

(D) the Loan Maturity Date of such Loan (which such date may not be later than the Facility Maturity Date).

(b) If the Lender makes a new Loan hereunder on a day on which the Authority is to repay all or any part of an outstanding Loan, unless the Authority shall otherwise repay the Loan coming due on such date, the Lender shall apply the proceeds of its new Loan to make such

repayment and in such event only an amount equal to the difference (if any) between the amount being borrowed and the amount being repaid shall be made available by the Lender to the Authority or remitted by the Authority to the Lender, as the case may be.

(c) Subject to the provisions of subsection (b) of this Section 2.02, by not later than 3:00 p.m. (New York time) on the date of such Borrowing, the Lender shall wire transfer, in federal or other immediately available funds, the proceeds of such Borrowing to the following account: JPMorgan Chase Bank, N.A., ABA: 021-000-021, Acct No.: 9008113381H4493, Reference: Town of Apple Valley, Attn: Loan & Agency; *provided, however*, that the Authority may, from time to time, change such account by written notice to the Lender, executed by an Authorized Officer of the Authority, given to the Lender at its address referred to in Section 9.02 hereof.

(d) Each Loan shall be in the principal amount requested by the Authority pursuant to each notice in the form of Exhibit A hereto but in any event in a minimum principal amount of \$100,000 or such greater amount which is an integral multiple of \$50,000; *provided, however*, that the Lender shall not be obligated to make more than one (1) Loan to the Authority in any calendar month.

(e) Notwithstanding anything herein to the contrary, until (i) the Lease Effective Date (or such other date approved in writing by the Lender in its sole discretion) shall have occurred and (ii) the Lender has provided written confirmation to the Authority and the Town that the conditions and covenants set forth in Section 6.01(t) hereof have been satisfied in the sole and absolute discretion of the Lender, the Lender shall have no obligation to make Loans hereunder if Loans in the aggregate would be outstanding in a principal amount greater than \$6,000,000 on any date.

Section 2.03. The Notes. (a) The Loans which are Taxable Loans shall be evidenced by a single corresponding Taxable Note payable to the Lender in an amount equal to the Commitment, and the Loans which are Tax-Exempt Loans shall be evidenced by a single corresponding Tax-Exempt Note payable to the Lender in an amount equal to the Commitment. Notwithstanding anything herein to the contrary, the aggregate principal amount of all Loans at any one time outstanding hereunder with respect to the Notes shall not exceed the amount of the Commitment.

(b) Each reference in this Agreement to the “Notes” shall be deemed to refer to and include either of such Notes, respectively, as the context may require.

(c) The Lender shall record the date, amount, type and maturity of each Loan made by it and the date and amount of each payment of principal made by or on behalf of the Authority with respect thereto, and prior to any transfer of a Note shall endorse on the schedule forming a part thereof appropriate notations to evidence the foregoing information with respect to each Loan then outstanding evidenced by such Note; *provided* that the failure of the Lender to make any such recordation or endorsement, or any error therein, or failure to submit any such notations to the Authority shall not affect the obligations of the Authority hereunder or under such Note. The Lender is hereby irrevocably authorized by the Authority so to endorse each Note and to attach to and make a part of each such Note a continuation of any such schedule as and when required.

(d) The Authority's obligations to repay each Loan and to pay interest thereon as provided herein shall be evidenced and secured by the related Note, and the Authority shall pay amounts under the related Note on each date on which the Authority is required to make a principal payment on the related Loan in an amount equal to the Loan payment due on such date. The payment of the principal of and interest on a Note shall constitute payment of the principal of and interest on the related Loans and the payment of the principal of and interest on the Loans shall constitute the payment of and principal and interest on the related Note and the failure to make any payment on any Loan when due shall be a failure to make a payment on the related Note and the failure to make any payment on the related Note when due shall be a failure to make a payment on the related Loan.

Section 2.04. Maturity of Loans. Each Loan included in any Borrowing shall mature, and the principal amount thereof (together with all accrued and unpaid interest therein) shall be due and payable by the Authority, on the Loan Maturity Date for such Loan or such earlier date on which all Loans or the related Loans become due and payable in accordance with the terms hereof; *provided, however,* that all Loans shall be due and payable in full on the Facility Maturity Date.

Section 2.05. Interest Rates. (a) Subject to Sections 2.05(d), 3.03 and Section 8.02 hereof at all times, each Loan which is a Taxable Loan shall bear interest on the outstanding principal amount thereof, for each day from the date such Taxable Loan is made until it becomes due, at a rate per annum equal to the sum of (i) the LIBOR Rate plus (ii) the Applicable Spread for the type of Loan. Such interest shall be payable by the Authority on each Interest Payment Date and on the Loan Maturity Date.

(b) Subject to Sections 2.05(d), 3.03 and Section 8.02 hereof at all times, each Loan which is a Tax-Exempt Loan shall bear interest on the outstanding principal amount thereof, for each day from the date such Tax-Exempt Loan is made until it becomes due, at a rate per annum equal to the sum of (i) the LIBOR Rate times the Applicable Factor, plus (ii) the Applicable Spread for the type of Loan. Such interest shall be payable by the Authority on each Interest Payment Date and on the Loan Maturity Date.

(c) The Lender shall determine each interest rate applicable to the Loans hereunder. The Loan Rate shall (i) initially be determined by the Lender two London Business Days prior to each Borrowing (including the Borrowing on the Effective Date, if any) and be effective for the period from and including the Borrowing date to but not including the immediately succeeding LIBOR Reset Date and (ii) thereafter be determined by the Lender on each Computation Date, to be effective for the period from and including such immediately succeeding LIBOR Reset Date to but not including the next succeeding LIBOR Reset Date. The Lender shall give prompt notice to the Authority by facsimile or electronic mail of each rate of interest so determined, and its determination thereof shall be conclusive in the absence of manifest error.

(d) (i) If the amount of interest payable for any period in accordance with terms hereof exceeds the amount of interest that would be payable for such period had interest for such period been calculated at the Maximum Rate, then interest for such period shall be payable in an amount calculated at the Maximum Rate for such period.

(ii) Any interest that would have been due and payable for any period but for the operation of Section 2.05(d)(i) shall accrue and be payable as provided in this paragraph (ii) and shall, less interest actually paid to the Lender for such period, constitute the “*Excess Interest Amount.*” If there is any accrued and unpaid Excess Interest Amount as of any date then the principal amount with respect to which interest is payable shall bear interest at the Maximum Rate, until the earlier of repayment of such principal or payment to the Lender of the entire Excess Interest Amount.

If there is any accrued and unpaid Excess Interest Amount as of any Interest Payment Date, then, on the current and each subsequent Interest Payment Date, interest shall be paid at the Maximum Rate rather than the otherwise applicable rate until the earlier of (A) payment to the Lender of the entire accrued Excess Interest Amount or (B) the Facility Maturity Date. Notwithstanding the foregoing, all unpaid Excess Interest Amount shall be, to the extent permitted by law, due and payable by the Authority as a fee on the Facility Maturity Date.

(iii) Notwithstanding the foregoing, on the date on which no principal amount hereunder remains unpaid, the Authority shall pay to the Lender a fee equal to any accrued and unpaid Excess Interest Amount.

Section 2.06. Fees. (a) The Town agrees to pay to the Lender a nonrefundable fee (the “*Commitment Fee*”) accruing at a rate per annum on the daily unused amount of the Commitment equal to twenty-seven and one half basis points (0.275%) (the “*Commitment Fee Rate*”); *provided*, that upon the occurrence, and at all times during the continuation of, an Event of Default, the Commitment Fee Rate shall be a rate per annum equal to two hundred twenty-seven and one-half basis points (2.275%).

The Commitment Fee shall be payable quarterly in arrears on the first Business Day of each January, April, July and October (commencing on January 2, 2019, for the period from and including the Effective Date to and including December 31, 2018), and on the Termination Date. The Commitment Fee shall be calculated on the basis of a 360-day year and actual days elapsed.

(b) Upon each amendment hereof, consent or waiver hereunder or under any Related Document, the Town shall pay or cause to be paid reasonable attorneys’ fees and expenses, if any, incurred by the Lender in processing such amendment, consent or waiver and a fee to the Lender of \$2,500 (or such other amount as the Town and the Lender may agree) for each such amendment, consent or waiver.

(c) If the Authority shall fail to pay any amount payable under this Section 2.06 as and when due, each such unpaid amount shall bear interest for each day from and including the date it was due until paid in full at the applicable Default Rate.

(d) The Town and the Authority shall pay within thirty (30) days after demand:

(i) all costs and expenses of the Lender in connection with the enforcement (whether by means of legal proceedings or otherwise) of any of its rights under this

Agreement, the other Related Documents and such other documents which may be delivered in connection therewith;

(ii) the reasonable fees and out-of-pocket expenses for counsel or other reasonably required consultants to the Lender in connection with advising the Lender as to its rights and responsibilities under this Agreement and the other Related Documents or in connection with Events of Default, potential Events of Default and responding to requests from the Authority or the Town for approvals, consents and waivers; and

(iii) any amounts advanced by or on behalf of the Lender to the extent required to cure any Default, Event of Default or event of nonperformance hereunder or any Related Document, together with interest at the Default Rate.

(e) Any principal of, and to the extent permitted by applicable law, any interest on, the Loans and any other sum payable hereunder, which is not paid when due shall bear interest, from the date due and payable until paid, payable on demand, at a rate per annum equal to the Default Rate.

Section 2.07. Optional Termination or Reduction of Commitment. (a) During the Revolving Credit Period, the Authority may, upon at least three Business Days' notice to the Lender, (i) terminate the Commitment at any time, if no Loans are outstanding at such time, or (ii) ratably reduce the Commitment from time to time by an aggregate amount of \$100,000 or any larger integral multiple of \$50,000, which amount shall be not greater than the amount of the Commitment in excess of the aggregate outstanding principal amount of the Loans.

(b) Notwithstanding the foregoing and anything set forth herein to the contrary, the Authority hereby agrees to pay to the Lender a Termination Fee (as defined below) in connection with any termination or replacement of the Commitment by the Authority prior to the Facility Maturity Date, in an amount equal to the product of (1) the Commitment Fee Rate in effect on the date of such termination or replacement, (2) the unused amount of the Commitment immediately prior to the date of such termination or replacement (without regard to any temporary reduction thereof) and (3) a fraction, the numerator of which is equal to the number of days from and including the date of such termination or replacement to and including the Facility Maturity Date, and the denominator of which is 360 (the "*Termination Fee*"), payable on the date of such termination or replacement.

(c) Notwithstanding the foregoing and anything set forth herein to the contrary, the Authority agrees not to permanently reduce the Commitment prior to the Facility Maturity Date, without the payment by the Authority to the Lender of a reduction fee in connection with each and every permanent reduction of the Commitment as set forth herein in an amount equal to the product of (A) the Commitment Fee Rate in effect on the date of such reduction, (B) the difference between the unused amount of the Commitment (without regard to any temporary reductions thereof) immediately prior to such reduction and the unused amount of the Commitment (without regard to any temporary reductions thereof) after such reduction, and (C) a fraction, the numerator of which is equal to the number of days from and including the date of such reduction to and including the Facility Maturity Date, and the denominator of which is 360 (the "*Reduction Fee*").

(d) Notwithstanding anything to the contrary in the foregoing parts (b) and (c) of this Section 2.07, the Authority may terminate or replace this Agreement or permanently reduce the Commitment without the payment by the Town of such Termination Fee or Reduction Fee, as applicable, if (i) the Notes and the Loans evidenced thereby are refinanced in full with the proceeds of a debt issuance which is not (A) supported by a credit or liquidity facility of a bank or another similar financial institution or (B) purchased or otherwise financed by a bank or similar financial institution, (ii) cash in the General Fund of the Town generated from taxes, other fees, fines, investment income, etc. (and, for the avoidance of doubt, shall not include cash from a debt issuance which is not (A) supported by a credit or liquidity facility of a bank or another similar financial institution or (B) purchased or otherwise financed by a bank or similar financial institution), or (iii) the Commitment is terminated as a result of the Lender imposing increased costs on the Town and the Authority pursuant to Section 3.02 of this Agreement.

Section 2.08. Mandatory Termination or Reduction of Commitment. The Commitment shall terminate on the Termination Date, and any Loans then outstanding (together with accrued interest thereon and all other amounts payable hereunder) shall be due and payable on such date.

Section 2.09. Optional Prepayments; Funding Indemnity. (a) Subject at all times to paragraph (b) hereof, the Authority may, upon at least three Business Days' notice to the Lender, prepay any Borrowing in whole at any time, or from time to time in part in amounts aggregating \$100,000 or any larger integral multiple of \$50,000, by paying the principal amount to be prepaid together with accrued interest thereon to the date of prepayment.

(b) In the event of the payment of any principal of any Loan other than on a LIBOR Reset Date (including as a result of an Event of Default or as a result of any prepayment permitted or required hereunder) then, in any such event, the Authority shall compensate the Lender for the loss, cost and expense attributable to such event. Such loss, cost or expense to the Lender shall be deemed to include an amount determined by the Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the interest rate that would have been applicable to such Loan, for the period from the date of such prepayment to but not including the immediately succeeding LIBOR Reset Date, over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which the Lender would bid were it to bid, at the commencement of such period, for dollar deposits of a comparable amount and period from other banks in the eurodollar market. A certificate of the Lender setting forth any amount or amounts that the Lender is entitled to receive pursuant to this Section shall be delivered to the Authority and the Town and shall be conclusive absent manifest error. The Authority shall pay the Lender the amount shown as due on any such certificate within thirty (30) days after receipt thereof.

Section 2.10. General Provisions as to Payments. The Authority shall make each payment of principal of, and interest on, the Loans and of fees hereunder, not later than 3:00 p.m. (New York time) on the date when due, in federal or other funds immediately available to the Lender by means of wire transfer of funds to the account referred to in Section 9.02 hereof; *provided, however,* that the Lender may, from time to time, change such account by written notice to the Authority and the Town, given to each of the Authority and the Town at its respective address referred to in Section 9.02 hereof. Whenever any payment of principal of, or interest on, the Loans

or of fees shall be due on a day which is not a Business Day, the date for payment thereof shall be extended to the next succeeding Business Day. If the date for any payment of principal is extended by operation of law or otherwise, interest thereon shall be payable for such extended time.

Section 2.11. Computation of Interest and Fees. Interest on Notes and Loans bearing interest at the LIBOR Rate and fees shall be calculated on the basis of a 360-day year based upon the actual number of days elapsed and interest on Notes and Loans bearing interest at the Alternate Base Rate shall be calculated on the basis of a 365 or 366 days year, as applicable, based upon the actual number of days elapsed.

Section 2.12. Security. (a) The Loans and the other Obligations hereunder and the Notes are secured by TRANS Payments. On the Effective Date, all TRANS (including those issued after the Effective Date) and all TRANS Payments are hereby assigned by the Authority to the Lender for the benefit of holders of the Notes and the Lender, and the payment of all Obligations of the Town and Authority hereunder and under the Notes are secured by and payable from such TRANS Payments.

(b) In consideration for extension of credit by the Lender in the form of the Loans (including, but not limited to, an increase in the outstanding amount of Loans hereunder to an amount greater than \$6,000,000), and in order to provide additional security for security for the payment of all Obligations of the Town and Authority hereunder and under the Notes and the Town's payment of the TRANS payments, the Town and the Authority will execute the Lease Documents on the Lease Effective Date (or such earlier or later date as required herein or permitted by the Lender in its sole discretion), and from and after the Lease Effective Date (or such earlier or later date as required herein or permitted by the Lender in its sole discretion), such Lease Documents shall become effective to provide security to the Lender and the Noteholders for the payment by the Authority of the Notes and the Loans evidenced thereby and the other Obligations hereunder now or hereafter owing to the Lender under this Agreement and the Notes and the Loans evidenced thereby. On and after the Lease Effective Date (or such other date permitted by the Lender in its sole discretion), all right, title and interest of the Authority in and to the Leased Property, the Site Lease and the Lease Agreement and all rights of the Authority thereunder, including, but not limited to, all Base Rental Payments and Additional Rental Payments under the Lease Agreement, shall be assigned to and for the benefit of the Lender and the Noteholders. The pledge of all Base Rental Payments and Additional Rental Payments under the Lease Agreement on the Lease Effective Date (or such other date permitted by the Lender in its sole discretion) and become a valid, binding and perfected pledge from and after the Lease Effective Date and the lien of such pledge shall be valid, binding and perfected as against all parties having claims of any kind in tort, contract or otherwise against the Town irrespective of whether such parties have notice thereof.

Section 2.13. Adjustment of Base Rental Payments. (a) Following the Lease Effective Date and on and after the occurrence of an Event of Default hereunder, the Town shall increase the amount of the Base Rental Payments payable under the Lease Agreement for the Leased Property during each Rental Period to the Maximum Fair Rental Value of the Leased Property determined in accordance with subsection (b) below.

(b) From and after the Lease Effective Date, to the extent any Notes and the Loan evidenced thereby or accrued interest thereon has not been paid as and when due and remains unpaid and for so long thereafter as any Loan or any other Obligation remain unpaid, the Town, upon the Lender's written request, from time to time (but not more than once in any twelve-month period), shall determine or cause to be determined, the maximum fair rental value for the Leased Property. Upon consultation with special counsel and the Lender, such determination shall be by an appraisal conducted by an appraiser or such other method reasonably approved by the Lender and shall be at the sole expense of the Town. In addition, the Town and the Authority agree to extend the term of the Site Lease in accordance with Section 7.02 thereof and the Lease Agreement in accordance with Section 2.02 thereof (and the related Assignment Agreement), if, on the expiration date thereof, any amounts remain owing to the Lender hereunder or under any of the other Related Documents.

ARTICLE III

TAXES, YIELD PROTECTION, AND ILLEGALITY

Section 3.01. Taxes.

(a) *Withholding Taxes; Gross-Up; Payments Free of Taxes.* Any and all payments by or on account of any obligation of the Authority under any Related Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable Law (as determined in the good faith discretion of any applicable withholding agent) requires the deduction or withholding of any Tax from any such payment by a withholding agent, then the applicable withholding agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the Authority shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 3.01), the Lender or such Noteholder receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) *Payment of Other Taxes.* The Authority shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Lender or such Noteholder, timely reimburse it for, Other Taxes.

(c) *Evidence of Payment.* As soon as practicable after any payment of Taxes by the Authority to a Governmental Authority pursuant to this Section 3.01, the Authority shall deliver to the Lender or such Noteholder the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment, or other evidence of such payment reasonably satisfactory to the Lender or such Noteholder.

(d) *Indemnification by the Authority and Town.* The Authority shall indemnify the Lender or such Noteholder, within thirty (30) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by the Lender or such Noteholder or required

to be withheld or deducted from a payment to the Lender or such Noteholder and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to each of the Town and the Authority by the Lender or such Noteholder shall be conclusive absent manifest error.

(e) *Treatment of Certain Refunds.* If the Lender or such Noteholder determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 3.01 (including by the payment of additional amounts pursuant to this Section 3.01), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 3.01 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of the Lender or such Noteholder and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of the Lender, shall repay to the Lender or such Noteholder the amount paid to the Lender or such Noteholder (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event the Lender or such Noteholder is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (e), in no event will the Lender or such Noteholder be required to pay any amount to any indemnifying party pursuant to this paragraph (e), the payment of which would place the Lender or such Noteholder in a less favorable net after-Tax position than the Lender or such Noteholder would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts giving rise to such refund had never been paid. This paragraph (e) shall not be construed to require the Lender or such Noteholder to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

Section 3.02. Increased Costs.

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

(i) imposes, modifies, or deems applicable any reserve, special deposit, compulsory loan, insurance charge, liquidity ratio or similar requirement against assets of, deposits with or for the account of, loans or other credit extended or participated in by, the Lender or any Noteholder;

(ii) subjects the Lender or any Noteholder to any tax of any kind whatsoever with respect to its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto or this Agreement, the Notes or the Loans made by it, or changes the basis of taxation of payments to the Lender or such Noteholder in respect thereof (except for Indemnified Taxes or Other Taxes covered by Section 3.01 hereof and the imposition of, or any change in the rate of, any Excluded Tax payable by the Lender or such Noteholder); or

(iii) imposes on the Lender or any Noteholder any other condition, cost, or expense affecting this Agreement or the Loans made by the Lender or any participation therein;

and the result of any of the foregoing is to increase the cost to the Lender or such Noteholder of making or maintaining the Loans (or of maintaining its obligation to make the Loans), or to reduce the amount of any sum received or receivable by the Lender or such Noteholder hereunder or under the Notes (whether of principal, interest, or any other amount) then, upon request of the Lender or such Noteholder, Town will pay to the Lender or such Noteholder such additional amount or amounts as will compensate the Lender or such Noteholder for such additional costs incurred or reduction suffered.

(b) *Capital or Liquidity Requirements.* If the Lender or any Noteholder determines that any Change in Law affecting the Lender or such Noteholder or any Lender's or Noteholder's holding company, if any, regarding capital or liquidity requirements has or would have the effect of (i) affecting the amount of capital or liquidity expected to be maintained by the Lender or any Noteholder or the Lender's or such Noteholder's holding company, as applicable, to a level above that which the Lender or such Noteholder or the Lender's or such Noteholder's holding company would have maintained but for such Change of Law or (ii) reducing the rate of return on the Lender's or such Noteholder's capital or liquidity or on the capital or liquidity of the Lender's or Noteholder's holding company, if any, as a consequence of this Agreement, the Commitment of the Lender, or the Loans made by the Lender or such Noteholder to a level below that which the Lender or such Noteholder or the Lender's or such Noteholder's holding company, if any, could have achieved but for such Change in Law (taking into consideration the Lender's policies and the policies of the Lender's or such Noteholder's holding company, if any, with respect to capital adequacy), then from time to time the Town will pay to the Lender or such Noteholder such additional amount or amounts as will compensate the Lender or such Noteholder or the Lender's or such Noteholder's holding company, if any, for any such increased costs incurred or reductions suffered.

(c) *Certificates for Reimbursement.* A certificate of the Lender or such Noteholder setting forth the amount or amounts necessary to compensate the Lender or such Noteholder or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section 3.02 and delivered to the Town and will be conclusive absent manifest error. The Town will pay the Lender or such Noteholder the amount shown as due on any such certificate within thirty (30) days after receipt thereof.

(d) *Delay in Requests.* Failure or delay on the part of the Lender or such Noteholder to demand compensation pursuant to the foregoing provisions of this Section will not constitute a waiver of the right of the Lender or such Noteholder to demand such compensation.

Section 3.03. Illegality; Inability to Determine Rates. (a) Subject at all times to paragraph (b) below, if at any time:

(i) the Lender determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the LIBOR

Rate (including, without limitation, because the LIBOR Rate is not available or published on a current basis);

(ii) the Lender determines that the LIBOR Rate will not adequately and fairly reflect the cost to the Lender of making or maintaining the Loans; or

(iii) the Lender determines that any Change in Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for the Lender to either (A) make, maintain or fund any Loan or (B) to determine or charge interest rates, in each case based upon the LIBOR Rate, or any Governmental Authority has imposed material restrictions on the authority of the Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market,

then the Lender shall give notice thereof to the Town and the Authority by telephone or telecopy as promptly as practicable thereafter and the Loans (but only to the extent any Loan is then bearing interest at the Loan Rate and not the Default Rate) shall convert on the next Business Day to bear interest at the Alternate Base Rate, until the Lenders notifies each of the Authority and the Town that the circumstances giving rise to such notice no longer exist.

(b) If at any time the Lender determines (which determination shall be conclusive absent manifest error) that (i) the circumstances set forth in clause (a)(i) have arisen and such circumstances are unlikely to be temporary or (ii) the circumstances set forth in clause (a)(i) or (a)(iii) have not arisen but the supervisor for the administrator of the LIBOR Rate or a Governmental Authority having jurisdiction over the Lender has made a public statement identifying a specific date after which the LIBOR Rate shall no longer be used for determining interest rates for loans, then the Lender, the Authority and the Town shall endeavor to establish an alternate rate of interest that gives due consideration to the then prevailing market convention for determining a rate of interest for loans in the United States at such time, and shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable. Notwithstanding anything to the contrary in Section 8.01 hereof, such amendment shall become effective without any further action or consent of any other party to this Agreement. Until an alternate rate of interest shall be determined in accordance with this clause (b) (but, in the case of the circumstances described in clause (ii) of the first sentence of this Section 3.03(b), only to the extent the LIBOR Rate is not available or published at such time on a current basis), the Loans (but only to the extent the Loan is then bearing interest at the Loan Rate and not the Default Rate) shall convert on the next Business Day to bear interest at the Alternate Base Rate.

Section 3.04. Determination of Taxability. (a) In the event a Determination of Taxability occurs, to the extent not payable to the Lender or any other Noteholder under the terms of the Tax-Exempt Loans and the Tax-Exempt Note, the Authority hereby agrees to pay to the Lender or any other Noteholder on demand therefor (i) an amount equal to the difference between (A) the amount of interest that would have been paid to the Lender or any other Noteholder on the Tax-Exempt Loans and the Tax-Exempt Note during the period for which interest on the the Tax-Exempt Loans and the Tax-Exempt Note is included in the gross income of the Lender or any other Noteholder if the Tax-Exempt Loans and the Tax-Exempt Note had borne interest at the Taxable Rate,

beginning on the Taxable Date (the “*Taxable Period*”), and (B) the amount of interest actually paid to the Lender or any other Noteholder during the Taxable Period, and (ii) an amount equal to any interest, penalties or charges owed by the Lender or any other Noteholder as a result of interest on the Tax-Exempt Loans and the Tax-Exempt Note becoming included in the gross income of the Lender or any other Noteholder, together with any and all attorneys’ fees, court costs, or other out-of-pocket costs incurred by the Lender or any other Noteholder in connection therewith;

(b) Subject to the provisions of paragraph (c) below, the Lender or any other Noteholder shall afford the Authority and the Town the opportunity, at the Authority’s and the Town’s sole cost and expense, to contest (i) the validity of any amendment to the Code which causes the interest on the Tax-Exempt Loans and the Tax-Exempt Note to be included in the gross income of the Lender or any other Noteholder or (ii) any challenge to the validity of the tax exemption with respect to the interest on the Tax-Exempt Loans and the Tax-Exempt Note, including the right to direct the necessary litigation contesting such challenge (including administrative audit appeals); *provided* that, in no event shall the Lender or any Noteholder be required to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Authority or the Town or any other Person; and

(c) As a condition precedent to the exercise by the Authority and/or the Town of its right to contest set forth in paragraph (b) above, the Authority shall, on demand, immediately reimburse the Lender or any other Noteholder for any and all expenses (including attorneys’ fees for services that may be required or desirable, as determined by the Lender or any other Noteholder in its sole discretion) that may be incurred by the Lender or any other Noteholder in connection with any such contest, and shall, on demand, immediately reimburse the Lender or any other Noteholder for any and all penalties or other charges payable by the Lender or any other Noteholder for failure to include such interest in its gross income.

Section 3.05. Survival. All of the obligations of the Authority and the Town under this Article III will survive the resignation or replacement of the Lender or any assignment of rights thereby, the satisfaction or discharge of all obligations under any Related Document, the termination of the Commitment and the repayment of all other Obligations hereunder.

ARTICLE IV

CONDITIONS

Section 4.01. Effectiveness. This Agreement shall become effective on the date on which each of the following conditions shall have been satisfied:

(a) receipt by the Lender of a counterpart hereof signed by each of the parties hereto;

(b) receipt by the Lender of (i) duly executed Notes dated on or before the Effective Date complying with the provisions of Section 2.03 hereof and (ii) each of the other Related Documents;

(c) receipt by the Lender of (i) an opinion of the counsel to each of the Town and the Authority, in a form acceptable to the Lender and covering such matters relating to the transactions contemplated hereby or by the Related Documents as the Lender may reasonably request, and (ii) an opinion of Note Counsel, in a form acceptable to the Lender and covering such matters relating to the transactions contemplated hereby or by the Related Documents as the Lender may reasonably request;

(d) receipt by the Lender of a certified copy of each of the Resolutions (each as in effect on the Effective Date) and a certificate of an Authorized Officer, dated the Effective Date, certifying that each Resolutions is in full force and effect on the Effective Date and that there has been no other amendment or supplement of, or modification to, any provision of any such instrument, except as set forth therein;

(e) receipt by the Lender of a certificate of an Authorized Officer, dated the Effective Date, of each of the Town and the Authority, certifying that (i) the representations and warranties of each of the Town and the Authority contained (or incorporated by reference) herein is true and correct on and as of the Effective Date, (ii) no Default or Event of Default has occurred and is continuing, (iii) no petition by or against the Authority or the Town has at any time been filed under the United States Bankruptcy Code or under any similar law; and (iv) with respect to the Town only, no material adverse change has occurred in the ratings, financial condition, business, assets, liabilities or prospects of the Town since June 30, 2017, except as disclosed in writing to the Lender prior to the Effective Date;

(f) receipt by the Lender of a certificate, dated the Effective Date, certifying as to the authorization and signatures of the officers of each of the Town and the Authority who are authorized to execute and deliver this Agreement and the Notes then being delivered, as applicable;

(g) receipt by the Lender of all opinions, certificates and other documents it may reasonably request relating to the existence of each of the Authority and the Town, the corporate authority for and the validity of this Agreement and the Notes then being delivered, and any other matters relevant hereto or thereto, all in form and substance satisfactory to the Lender;

(h) receipt by Lender of the Investment Policy of the Town;

(i) receipt by the Lender of (i) reimbursement of the Lender's fees and expenses and any other fees incurred in connection with the transaction contemplated by the Related Documents, including, without limitation, any fee payable to the California Debt and Investment Advisory Commission by the Lender with respect to the Notes and (ii) confirmation that Chapman and Cutler LLP, as counsel to the Lender, has received payment of its legal fees and expenses incurred in connection with the preparation, review, negotiation, execution and delivery of the Related Documents;

(j) receipt by the Lender of all opinions, certificates and other documents it may reasonably request relating to each of the Authority and the Town, the corporate authority and resolutions for and the valid authorization of the Lease Documents, and any other matters relevant hereto or thereto, all in form and substance satisfactory to the Lender;

(k) receipt by the Lender of environmental questionnaires completed to the satisfaction of Lender to establish the absence of environmental matters adversely affecting the Leased Property; and

(l) receipt by the Lender of information needed for the Lender to complete its standard bank regulatory flood diligence with respect to the Leased Property and requisite flood insurance if the Leased Property is located in a flood area.

Section 4.02. Taxable Borrowings During the Revolving Credit Period. The obligation of the Lender to make a Loan on the occasion of any Borrowing is subject to the satisfaction of the following conditions:

(a) receipt by the Lender of a Notice of Borrowing (or appropriate notice regarding continuation or conversion) as required by Section 2.02 hereof;

(b) the fact that, immediately after such Borrowing, the aggregate outstanding principal amount of the Loans will not exceed the amount of the Commitment;

(c) the fact that, immediately before and as a result of giving effect to such Borrowing no Default or Event of Default shall have occurred and be continuing;

(d) the fact that the representations and warranties of each of the Authority and the Town contained in this Agreement shall be true in all material respects on and as of the date of such Borrowing, continuation or conversion.

Each Borrowing, continuation or conversion hereunder shall be deemed to be a representation and warranty by each of the Authority and the Town on the date of such Borrowing as to the facts specified in clauses (b), (c) and (d) of this Section.

Section 4.03. Initial Tax-Exempt Loan Borrowings. The obligation of the Lender to make the initial Tax-Exempt Loan hereunder is subject to the satisfaction of the following conditions:

(a) all conditions set forth in Section 4.02 hereof shall be satisfied prior to the making of such Tax-Exempt Loan and the issuance and delivery to the Lender of the Tax-Exempt Note;

(b) the Lender shall have received an executed opinion of Note Counsel, in a form acceptable to the Lender, to the effect that the interest on the applicable Tax-Exempt Loan and the Tax-Exempt Note is excludable from gross income for federal income tax purposes;

(c) the Authority shall have executed, and the Lender shall have received an executed copy of, the Tax Certificate or supplement related to the applicable Tax-Exempt Loan and the Tax-Exempt Note; and

(d) the Lender shall have received evidence that an IRS Form 8038-G has been duly completed by the Authority and signed by the Authority relating to the initial Tax-Exempt Loan and the Tax-Exempt Note.

Notwithstanding anything herein to the contrary, until (i) the Lease Effective Date (or such other date approved in writing by the Lender in its sole discretion) shall have occurred and (ii) the Lender has provided written confirmation to the Authority and the Town that the conditions and covenants set forth in Section 6.01(t) hereof have been satisfied in the sole and absolute discretion of the Lender, the Lender shall have no obligation to make Loans hereunder if Loans in the aggregate would be outstanding in a principal amount greater than \$6,000,000 on any date.

Section 4.04. Subsequent Tax-Exempt Loan Borrowings. The obligation of the Lender to make each Tax-Exempt Loan after the initial Tax-Exempt Loan hereunder is subject to the satisfaction of the following conditions:

(a) all conditions set forth in Section 4.02 hereof shall be satisfied prior to the making of such Tax-Exempt Loan and the Tax-Exempt Note;

(b) the Lender shall have received an executed opinion of Note Counsel, in a form acceptable to the Lender, to the effect that the interest on the applicable Tax-Exempt Loan and the Tax-Exempt Note is excludable from gross income for federal income tax purposes or written confirmation from Note Counsel that the opinion delivered pursuant to Section 4.03(b) hereof applies to such Tax-Exempt Loan;

(c) the Authority shall have executed, and the Lender shall have received an executed copy of, the Supplemental Tax Certificate with respect to the applicable Tax-Exempt Loan and the Tax-Exempt Note; and

(d) the Lender shall have received evidence that an IRS Form 8038-G has been duly completed by the Authority and signed by the Authority relating to the initial Tax-Exempt Loan and the Tax-Exempt Note.

Notwithstanding anything herein to the contrary, until (i) the Lease Effective Date (or such other date approved in writing by the Lender in its sole discretion) shall have occurred and (ii) the Lender has provided written confirmation to the Authority and the Town that the conditions and covenants set forth in Section 6.01(t) hereof have been satisfied in the sole and absolute discretion of the Lender, the Lender shall have no obligation to make Loans hereunder if Loans in the aggregate would be outstanding in a principal amount greater than \$6,000,000 on any date.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

Section 5.01. Representations of the Town. In order to induce the Lender to enter into this Agreement, the Town hereby represents and warrants to the Lender, as follows:

(a) *Organization and Authorization.* The Town is a municipal corporation duly organized and validly existing under the Constitution and laws of the State.

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

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

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

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

(ii) *No Violation.* The execution, delivery and performance by the Town of this Agreement and the Related Documents to which it is a party, and all other agreements and instruments relating to this Agreement and the Related Documents executed and delivered by the Town in connection herewith and therewith (i) do not violate any provision of the Constitution of the State or the laws of the State or any other applicable law, regulation, order, writ, judgment or decree of any court, arbitrator or governmental authority except to the extent that any such violation could not reasonably be expected to result in a Material Adverse Effect, and (ii) do not violate any provision of, constitute a default under, or result in the

creation or imposition of any Lien on any of the assets of the Town pursuant to the provisions of, any mortgage, resolution, indenture, contract, agreement or other undertaking to which the Town is a party or which purports to be binding on the Town or on any of its assets, other than the Liens created hereby or by the Related Documents, which violation could not reasonably be expected to result in a Material Adverse Effect.

(iii) *No Restrictions.* The Town is not a party to, or otherwise subject to, any provision contained in any instrument evidencing Debt of the Town, or any other contract or agreement which limits the amount of, or otherwise imposes restrictions on the incurring of, obligations of the Town that could reasonably be expected to result in a Material Adverse Effect.

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

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

(f) *Litigation.* There is no action, suit, investigation or proceeding, injury or investigation before or by any court, public board or body pending or threatened against or affecting the Town, in which an adverse determination could reasonably be expected to result in a Material Adverse Effect.

(g) *Disclosure.* The representations and statements made by the Town herein or in any Related Document or made by the Town in any other document furnished to the Lender by the Town in connection herewith or therewith are accurate as of the date of this Agreement. All financial statements of the Town furnished to the Lender were prepared in accordance with generally accepted accounting principles for government entities and applied on a consistent basis throughout the periods involved and are complete and correct and fairly present the financial condition of the Town as of such dates. Since the date of the most recent financial statements referred to in the preceding sentence, no material adverse change has occurred in the business, operations or condition (financial or otherwise) of the Town.

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

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

(j) *No Immunity.* The Town is not entitled to claim immunity on the grounds of sovereignty or other similar grounds (including, without limitation, governmental immunity) with respect to itself or its revenues (irrespective of their use or intended use) from (i) any action, suit or other proceeding arising under or relating to this Agreement or any other Related Document, (ii) relief by way of injunction, order for specific performance or writ of mandamus or for recovery of property or (iii) execution or enforcement of any judgment to which it or its revenues might otherwise be made subject in any action, suit or proceeding relating to this Agreement or any other Related Document, and no such immunity (whether or not claimed) may be attributed to the Town or its revenues.

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

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

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

(n) *Regulations U and X.* The Town is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U or X issued by the Board of Governors of the Federal Reserve System); and

no proceeds of the Notes or of any Loans hereunder will be used to extend credit to others for the purpose of purchasing or carrying any margin stock.

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

(ii) In the ordinary course of its business, the Town conducts an ongoing review of Environmental Regulations on the business, operations and properties of the Town, in the course of which it identifies and evaluates associated liabilities and costs (including, without limitation, any capital or operating expenditures required for clean-up or closure of properties presently or previously owned or operated, any capital or operating expenditures required to achieve or maintain compliance with environmental protection standards imposed by law or as a condition of any license, permit or contract, any related constraints on operating activities, including any periodic or permanent shutdown of any facility or reduction in the level of or change in the nature of operations conducted thereat and any actual or potential liabilities to third parties, including employees, and any related costs and expenses). On the basis of such review the Town has reasonably concluded that Environmental Regulations are unlikely to have a material adverse effect on the Leased Property or the ability of the Town to pay any Base Rental Payments or Additional Rental Payments or any of its obligations hereunder or under any other Related Document.

(p) *ERISA.* The Town does not maintain or contribute to, and has not maintained or contributed to, any Plan that is subject to Title IV of ERISA. The Town has no unfunded pension obligations which could reasonably be expected to result in a Material Adverse Effect.

(q) *Title to Town Hall.* The Town has good and marketable fee simple title to all of the Leased Property, subject only to Permitted Encumbrances. The Lease Documents shall be in full force and effect after the Lease Effective Date (or such other date approved in writing by the Lender in its sole discretion).

(r) *Security.* The Loans and the Notes are secured by the TRANs and the TRANs Payments. The TRANs and the TRANs Payments have been irrevocably pledged by the Authority to the Lender pursuant to the terms of this Agreement for the benefit of holders of the Notes and the Loans evidenced thereby and the Lender, and the payment of the Notes and the Loans evidenced thereby and all other Obligations of the Town and Authority hereunder and under the Notes are secured by and payable from the TRANs and the TRANs Payments.

(s) *Insurance.* The Town currently maintains insurance of such type and in such amounts or in excess of such amounts as are customarily carried by and insures against such risks as are customarily insured against by, public agencies with similar activities.

(t) *Usury; Maximum Rate.* The terms of this Agreement, the Loans, the Notes and the other Related Documents regarding the calculation and payment of interest and fees do not violate any applicable usury laws. As of the Effective Date, the maximum rate permitted by applicable law is 12% per annum.

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

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

(w) *Anti-Corruption Laws and Sanctions.* The Town has implemented and maintains in effect policies and procedures designed to ensure compliance by the Town and its directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Town and its officers and employees and to the knowledge of the Town, its directors and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of (a) Town or any of its directors, officers or employees, or (b) to the knowledge of Town, any of its agents will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. No transaction contemplated by this Agreement or the other Related Documents will violate Anti-Corruption Laws or applicable Sanctions.

(x) *Essentiality.* The Leased Property is an essential asset of the Town necessary to serve the needs of the residents of the Town. The Town believes that at all times while any Base Rental Payments and Additional Rental Payments or any obligation of the Town under the Related Documents remains unpaid, the Leased Property will remain an essential asset of the Town.

(y) *Lease Documents.* The Town has the full power and authority to enter into, to execute and to deliver the Lease Documents and to perform all of its duties and obligations thereunder. The Constitution and laws of the State authorize the Town to enter into the Lease Documents, and to enter into the transactions contemplated by and to carry out its obligations thereunder. The Town does not believe there to be any underground storage tanks, Hazardous Material or solid waste disposal areas, Releases (as hereinafter defined) of Hazardous Materials or other adverse environmental conditions on the Leased Property. Without limiting the generality of the foregoing, neither the Town nor to the best of its knowledge, after due inquiry, any prior or present owner, tenant or subtenant of the Leased Property has, other than as may have been fully remediated, abated or otherwise addressed in accordance with Environmental Regulations, (i) generated, used, treated,

stored, transported, managed, located or disposed of any material amount of flammable explosives, polychlorinated biphenyl compounds, heavy metals, chlorinated solvents, cyanide, radon, petroleum products, asbestos or any Asbestos Containing Materials, methane, radioactive materials, pollutants, hazardous materials, hazardous wastes, hazardous, toxic, or regulated substances or related materials, as defined in CERCLA, RCRA, CWA, CAA, TSCA and Title III, and the regulations promulgated pursuant thereto, and in all other Environmental Regulations applicable to the Town, the Leased Property or the business operations conducted by the Town thereon (collectively, "Hazardous Materials") at, on, from or beneath the Leased Property, (ii) pumped, spilled, leaked, disposed of, emptied, discharged or released (collectively "Release") any amount of Hazardous Materials on, from or beneath the Leased Property other than in de minimis quantities and in compliance with Environmental Regulations, or (iii) maintained or stored any amount of petroleum products at the Leased Property in underground storage tanks. "Asbestos Containing Materials" means material in friable form containing more than 1% of the asbestiform varieties of (a) chrysotile (serpentine), (b) crocidolite (ricbeckite), (c) amosite (cummington-itegrinerite), (d) anthophyllite, (e) tremolite, and (f) actinolite.

Section 5.02. Representations of Authority. In order to induce the Lender to enter into this Agreement, the Authority hereby represents and warrants to the Lender, as follows:

(a) *Organization and Authorization.* The Authority is a joint exercise of powers authority duly organized and existing under the Act, and thereunder is permitted to borrow money for the purpose of financing or refinancing public capital improvements of local agencies within the State. The Authority JPA remains in full force and effect.

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

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

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

adversely affect the ability of the Authority to perform its obligations hereunder or under any of the Related Documents to which it is a party.

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

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

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

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

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

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

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

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

(i) *No Immunity.* The Authority is not entitled to claim immunity on the grounds of sovereignty or other similar grounds (including, without limitation, governmental immunity) with respect to itself or its revenues (irrespective of their use or intended use) from (i) any action, suit or other proceeding arising under or relating to this Agreement or any other Related Document, (ii) relief by way of injunction, order for specific performance or writ of mandamus or for recovery of property or (iii) execution or enforcement of any judgment to which it or its revenues might otherwise be made subject in any action, suit or proceeding relating to this Agreement or any other Related Document, and no such immunity (whether or not claimed) may be attributed to the Authority or its revenues.

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

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

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

(m) *Anti-Corruption Laws and Sanctions.* The Authority has implemented and maintains in effect policies and procedures designed to ensure compliance by the Authority and its directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Authority and its officers and employees and to the knowledge of the Authority, its directors and agents, are in compliance with Anti-Corruption Laws and

applicable Sanctions in all material respects. None of (a) Authority or any of its directors, officers or employees, or (b) to the knowledge of Authority, any of its agents will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. No transaction contemplated by this Agreement or the other Related Documents will violate Anti-Corruption Laws or applicable Sanctions.

ARTICLE VI AFFIRMATIVE COVENANTS

Section 6.01. Affirmative Covenants. The Town and the Authority, as applicable, covenant and agree that it will do the following unless and until this Agreement shall have terminated and all Loans and all other Obligations shall have been paid in full, unless the Lender shall otherwise consent in writing:

(a) *Financial Records.* (i) The Town shall at all times maintain financial records and furnish to the Lender as soon as available, but in any event upon the earlier of (a) such date as the Town's Council authorizes the release of such financial records and (b) one hundred eighty (180) days after the end of each fiscal year (*provided*, that with respect to the audited financial statements of the Town for the fiscal year ended June 30, 2018, the Town shall have two hundred ten (210) days after the end of such fiscal year), audited financial statements prepared including such balance sheet and statements, certified by an independent certified public accounting firm and prepared in accordance with generally accepted accounting principles for governmental entities consistently applied, except to the extent State law requires otherwise.

(ii) The Town shall deliver to the Lender within sixty (60) days after each June 30 and December 31 of each fiscal year (a) the semi-annual financial report (which shall include footnotes and narrative with respect to any material adverse change in the financial condition or operations of the Town since the date of the last semi-annual financial report) that the Town provides to its Council on a semi-annual basis prepared in the same manner and on a consistent basis as currently prepared and (b) the balance in the General Fund and the Enterprise Funds.

(iii) Each of the financial records furnished to the Lender pursuant to clause (i) and (ii) of this Section 6(a) hereof shall be accompanied by a written certificate signed by the director of finance of the Town to the effect that to the best of such officer's knowledge and belief no Default or Event of Default has occurred during the period covered by such statements or, if any such Default or Event of Default has occurred during such period, setting forth a description of such Default or Event of Default and specifying the action, if any, taken by the Town to remedy the same.

(iv) The Town shall deliver to the Lender a copy of its annual budget for the next fiscal year and such additional period as may be covered by such budget promptly upon adoption of such budget.

(v) The Town and/or the Authority shall furnish to the Lender, as the Lender may reasonably request, such additional information concerning the Town or the Authority, including, without limitation, the Obligations, the General Fund, the Enterprise Funds and other information about the financial condition, results of operations, properties or business of the Town or the Authority in order to enable the Lender to determine whether the covenants, terms and provisions of this Agreement, the other Related Documents to which the Town or the Authority is a party and all other Debt of the Town and the Authority have been complied with by the Town and the Authority and for that purpose all pertinent books, documents and vouchers relating to the Town's or the Authority's business, affairs and properties shall at all reasonable times during regular business hours and, upon three (3) Business Days' prior notice, be open to the inspection of such accountants or other agents (who may make copies of all or any part thereof at their own cost and expense) as shall from time to time be designated by the Lender. Without limiting the foregoing, upon three (3) Business Days' prior notice, the Town and the Authority will permit the Lender to visit and inspect any of the properties of the Town or the Authority, as applicable, during regular business hours and to discuss the affairs, finances and accounts of the Town or the Authority, as applicable, with its respective officials and any accounting firm performing services for the Town or the Authority, as often as the Lender may reasonably request.

(b) *Notices of Certain Events.* The Town and the Authority shall give prompt notice in writing to the Lender upon becoming aware of the occurrence of (i) any Default or Event of Default, (ii) any default or event of default under any of the Related Documents and (iii) any development, financial or otherwise, which the Town or the Authority should reasonably expect to have a material adverse effect on its business, properties or affairs or the ability of the Town or the Authority, as applicable, to perform its obligations as set forth hereunder or under any of the Related Documents to which it is a party.

(c) *Compliance with Obligations.* The Town and the Authority shall observe and comply with all of their obligations arising in connection with their respective Debt, the Related Documents and all Laws of the State applicable to the Town and the Authority, so as not to materially adversely affect the ability of the Town or the Authority to perform their respective obligations hereunder or under any of the Related Documents to which it is a party.

(d) *Compliance with Laws, Etc.* The Town and the Authority shall comply in all material respects with all applicable laws, ordinances, rules, regulations, and requirements of Governmental Authorities (including, without limitation, Environmental Laws, Anti-Corruption Laws, applicable Sanctions and ERISA and the rules and regulations thereunder, state securities and blue sky laws in connection with the offering,

sale and delivery of the Notes) except where the necessity of compliance therewith is contested in good faith by appropriate proceedings.

(e) *Litigation.* The Town and the Authority shall forthwith notify the Lender in writing with respect to any pending or threatened litigation with respect to the Town or the Authority the existence of which causes the representation set forth in Section 5.01(f) or 5.02(f) hereof, as applicable, hereof to be untrue or inaccurate in any material respect.

(f) *Licenses, Permits, Etc.* The Town and the Authority shall take all necessary and appropriate action to ensure the continuance in force of all material consents, licenses, permits, orders, decrees, approvals, authorizations, registrations and filings obtained or made in connection with this Agreement or the Related Documents to which the Town or the Authority is a party or necessary to authorize the execution, delivery and performance by the Town or the Authority of this Agreement or the Related Documents to which the Town or the Authority is a party and all other agreements to be delivered in connection with any thereof.

(g) *Books and Records.* The Town and the Authority shall keep or cause to be kept adequate and proper records and books of account with respect to the Town and the Authority in which complete and correct entries shall be made, reflecting all financial transactions of the Town and the Authority in connection with the proceeds of the Loans allocable to it.

(h) *Use of Proceeds.* The Town and the Authority shall use the proceeds of the Loans for the purposes set forth in the Resolutions and the other Related Documents.

(i) *Maintenance of Existence.* (i) The Town shall preserve and maintain its existence as a municipal corporation and political subdivision duly organized and existing under the laws of the State, and its rights, franchises and privileges material to the conduct of its business.

(ii) The Authority shall preserve and maintain its existence as a joint exercise powers agency duly organized and existing under the laws of the State, and its rights, franchises and privileges material to the conduct of its business.

(j) *Notice of Adverse Change.* The Town and the Authority shall each notify the Lender as soon as possible after any member of the Council or officer of the Town or the Authority acquires knowledge of the occurrence of (i) the filing of any action or the occurrence of any activity which is likely to lead to an initiative or referendum which could lead to the diminution or reallocation of Legally Available Funds or the amounts held in the General Fund or the Enterprise Funds or any other revenues or funds received by the Town or the Authority or (ii) any other event which, in the reasonable judgment of such member or officer, is likely to have a Material Adverse Effect.

(k) *Further Assurances.* The Town and the Authority shall execute and deliver to the Lender all such documents and instruments, and do all such acts and things, as may

be necessary or reasonably required by the Lender to enable the Lender to exercise and enforce its rights under this Agreement and the other Related Documents and to realize thereon, and record and file and re-record and re-file all such documents and instruments, at such time or times, in such manner and at such place or places, all as may be necessary or reasonably required by the Lender to validate, preserve and protect the Lien of the Lender under this Agreement and the other Related Documents.

(l) *Maintenance of Insurance.* The covenants that it will maintain insurance with responsible and reputable insurance companies in such amounts, with such deductibles, and covering such risks and contingencies as required by the Related Documents.

(m) *Investments.* Promptly upon any change therein, the Town shall deliver to the Lender a copy of the Town's current Investment Policy or the current investment policy of any other entity which maintains an investment pool in which the Town has invested any of its funds, as the case may be.

(n) *Incorporation by Reference.* Each of the Town and the Authority agrees that it shall, for the benefit of the Lender, comply with, abide by and be restricted by all of the agreements, covenants, obligations and undertakings of the Town and the Authority, as applicable, contained in the Related Documents, which, together with the related definitions and ancillary provisions, are incorporated herein by reference and made a part hereof to the same extent with the same force and effect as if the same had been herein set forth in their entirety, and they will be deemed to continue in effect for the benefit of the Lender, without regard or giving effect to any amendment or modification of such provisions or any waiver of compliance therewith, no such amendment, modification or waiver to in any manner constitute an amendment, modification or waiver of the provisions thereof as incorporated herein except to the extent provided for in Section 8.01(a) hereof.

(o) *ERISA.* The Town and the Authority shall comply in all material respects with Title IV of ERISA, if, when and to the extent applicable and shall fund its pension obligations as and when due.

(p) *Certain Notices.* The Town and the Authority, as applicable, shall furnish to the Lender the following:

(i) Prompt notice of any action, suit or proceeding known to it at law or in equity or by or before any Governmental Authority which, if adversely determined, would be reasonably likely to result in a material adverse change in the business, operations or condition (financial or otherwise) of the Town or the Authority.

(ii) Prompt written notice to the Lender of (1) any material dispute which may exist in connection with any material transaction contemplated under this Agreement, or (2) any matter or event which may result in a material adverse

change in the business, operations or condition (financial or otherwise) of the Town or the Authority.

(iii) Within thirty (30) days of the issuance of any obligations of the Town or the Authority, copies of any disclosure documents distributed in connection therewith.

(iv) Promptly after the furnishing thereof, copies of any financial statement or report furnished to any trustee or other holder of the obligations of the Town or the Authority pursuant to the terms of the Authority Resolution, any resolution, indenture, loan or credit or similar agreement and not otherwise required to be furnished to the Lender pursuant to any other [clause of this Section 6(t)].

(v) (1) Forthwith, copies of any notification delivered to or received by it with respect to a downgrade, withdrawal or suspension of the rating assigned by S&P or Moody's to any obligation of the Town or the Authority and (2) forthwith, copies of any correspondence or other communications, delivered to or received by the Town or the Authority, from the Internal Revenue Service with respect to the Notes or any other obligation of the Town or the Authority.

(q) *Security Interests.* (i) The Town and the Authority shall at all times keep the TRANS and the TRANS Payments and every part thereof free and clear of all pledges and security interests and shall maintain the pledge of the TRANS and the TRANS Payments to the Lender as a pledge of all right, title and interest of the Town in the TRANS and the TRANS Payments and all rights of the Authority to receive any TRANS Payments from the Town.

(ii) The Authority shall not transfer or make any payments from the TRANS Payments other than paying or causing to be paid the Loans and the Notes which evidence the Loans and all other Obligations of the Authority hereunder, as and when due.

(r) *OFAC.* Neither the Authority nor the Town will use, and shall require that its affiliates and its or their respective directors, officers, employees and agents shall not use, the proceeds of the Loans (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or (C) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

(s) *Financial Covenants.* (i) The Town shall use the proceeds of any Debt and, to the extent duly authorized by the Town and if permitted by applicable law, transfer any moneys in any or all of the Enterprise Funds in connection with the issuance or incurrence of any Debt payable from or secured by an Enterprise Fund, in each case issued or incurred by, or on behalf of, the Town, whether secured by or payable from the General Fund, any Enterprise Fund or otherwise, to prepay the outstanding Loans and the Notes which

evidence the Loans and all other Obligations hereunder; *provided, however*, that in the event that the Town is not authorized to transfer moneys from any Enterprise Fund to the General Fund, the Town covenants that it shall not issue any Debt secured by or payable from an Enterprise Fund (other than Debt payable from or secured by the Town's Wastewater Fund-5010 (Sewer)) until the Notes and any Loans evidenced thereby and all other Obligations hereunder are paid in full.

(ii) The Town shall at all times maintain (a) an amount equal to not less than \$5,000,000 in Legally Available Funds and (b) an amount not less than 10% of the outstanding Notes and the Loans evidenced thereby in its General Fund.

(iii) Prior to May 31st of each fiscal year, the Town shall either (i) refinance the Notes and the Loans evidenced thereby and all other Obligations due and owing hereunder with any Debt of the Town payable from the General Fund, any Enterprise Fund (to the extent permitted by law) or otherwise or (ii) have taken all necessary actions, including the adoption of any required resolutions or ordinances and caused the preparation of substantially final forms of related legal documentation, in order to deliver a replacement TRAN to the Authority by July 1st of the next succeeding fiscal year. To the extent that (i) the outstanding Loans have not been refinanced by May 31st of the applicable fiscal year or (ii) the Town has not taken all necessary action to cause the issuance of the TRANS on July 1st of the next succeeding fiscal year, the Commitment shall terminate and the outstanding Loans shall become immediately due and payable by the Town from all Legally Available Funds on June 1st of such fiscal year;

(iv) Prior to January 31, 2021, the Town shall have provided written notice to the Lender that the Town intends to refinance the Notes and all outstanding Loans evidenced thereby and, in connection therewith, provide evidence reasonably satisfactory to the Lender that the Town will reasonably be able to complete the refinancing (collectively, the "Notice of Refinancing"). If the Town provides the Notice of Refinancing, the Authority shall repay the Obligations in full on or prior to the date that is one hundred twenty (120) days from the date the Lender receives such Notice of Refinancing. If the Town does not provide the Lender with such Notice of Refinancing on or prior to January 31, 2021, the Town will deposit into the Reserve Fund an amount equal to 75% of the Notes and the outstanding Loans evidenced thereby on or prior to February 15, 2021 and, with respect to the Notes and the remaining outstanding Loans evidenced thereby, the Town shall make equal monthly deposits into the Reserved Fund from and including March 15, 2021 to and including June 30, 2021 and, from and after January 31, 2021, the Lender shall have no further obligation to make Loans under this Agreement. For an avoidance of doubt, the Town may deposit Legally Available Funds maintained pursuant to [Section 6.01(s)(ii)] for compliance with this covenant and will deemed to be in compliance with [Section 6.01(s)(ii)] of this Agreement. Notwithstanding anything in this covenant to the contrary, in the event the Town requests an extension of the Facility Maturity Date pursuant to this covenant and Section 2.01(b) hereof, and the Lender agrees to extend the Facility

Maturity Date in accordance herewith prior to January 31, 2021, the requirements of this covenant shall be of no force and effect.

(t) *Covenants Relating to the Leased Property.* (i) The Town shall not, and shall not permit any other Person, to create a lien on or otherwise encumber the Leased Property other than Permitted Encumbrances.

(ii) The Town shall provide the Lender with at least thirty (30) days' prior written notice to the payment, defeasance or deemed payment in full of the 1999 Certificates of Participation.

(iii) On or prior to the Lease Effective Date (or such other date approved in writing by the Lender in its sole discretion), the Town shall deliver to the Lender:

(a) evidence of the Town's current hazard and rental interruption (which rental interruption period shall be for a minimum period of 24 months) third party insurance for the Leased Property, assuming an interest rate of at least 12% and such insurance shall be satisfactory to the Lender. Any self-insurance or risk pooling shall comply with the terms of the Lease Agreement and such commercial insurance policies shall name the Lender as loss payee and additional insured;

(b) a certificate of the Town as to the fair rental value of the Lease Property;

(c) receipt by the Lender of evidence that the Town and the Authority have caused to be recorded in the Office of the San Bernardino County Recorder the Lease Documents;

(d) receipt by the Lender of all opinions, certificates and other documents it may reasonably request relating to each of the Authority and the Town, the corporate authority and resolutions for and the validity of the Lease Documents and no-adverse effect on the exclusion of interest on the Tax-Exempt Loans from gross income for federal income tax purposes,, and any other matters relevant hereto or thereto, all in form and substance satisfactory to the Lender;

(e) receipt by the Lender of environmental questionnaires completed to the satisfaction of Lender to establish the absence of environmental matters adversely affecting the Leased Property;

(f) receipt by the Lender of information needed for the Lender to complete its standard bank regulatory flood diligence with respect to the Leased Property and requisite flood insurance if the Leased Property is located in a flood area; and

(g) an ALTA or CLTA title insurance policy or policies with respect to the Leased Property in the amount of the greater of the Commitment and the fair

market value of such Leased Property, issued by the title company in favor of the Lender insuring the Town's fee simple interest, and the Authority's and the Lender's leasehold estate, in the Leased Property, subject only to such exceptions as shall be acceptable to the Lender, with such endorsements and affirmative coverages as may be reasonably required by the Lender, and otherwise in form and substance satisfactory to the Lender and its counsel.

(iv) *Covenants and Legal Duties.* From and after the Lease Effective Date, subject to Section 3.05 of the Lease Agreement, the Town agrees to include all required Base Rental Payments and Additional Rental Payments due under the Lease Agreement in each fiscal year in its annual budget and to make the necessary annual appropriations for all such required Base Rental Payments and Additional Rental Payments, if any, subject to Section 3.06 of the Lease Agreement. The covenants on the part of the Town herein contained and in the Lease Agreement shall be deemed to be and shall be construed to be duties imposed by law, and it shall be the duty of each and every public official of the Town to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the Town to carry out and perform such covenants and agreements.

(v) The Town covenants and agrees that:

(1) On or prior to the Lease Effective Date (or such other date approved in writing by the Lender in its sole discretion) the Town shall pursuant to action of its governing board, duly authorize and execute the Lease Documents and the Lease Documents shall constitute the legal, valid and binding obligations of the Town 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. Neither the execution and delivery of the Lease Documents, nor the fulfillment of or compliance with the terms and conditions thereof, nor the consummation of the transactions contemplated thereby, will conflict with or result in a violation or breach of or default under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the Town is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Town, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Lease Documents or the financial condition, assets, properties or operations of the Town.

(2) Neither the execution and delivery of the Lease Documents, nor the fulfillment of or compliance with the terms and conditions thereof, nor the consummation of the transactions contemplated thereby, will result in the creation or imposition of any lien, charge or encumbrance whatsoever upon the Leased Property, except for Permitted Encumbrances. No consent or approval of any trustee or holder of any indebtedness of the Town, and no consent, permission, authorization, order or license of, or filing or

registration with, any Governmental Authority or otherwise, is necessary in connection with the execution and delivery of the Lease Documents, or the consummation of any transaction therein contemplated.

(3) The Leased Property is the Town's Town Hall, Recreation Center and associated surface parking located at 14955 Dale Evans Parkway in the Town.

(4) The Leased Property and all activities thereon comply and shall comply in all material respects with applicable zoning ordinances and all Environmental Regulations, the Town holds and shall hold and maintain in full force and effect all permits and approvals required from Governmental Authorities for the use and occupancy of the Leased Property under Environmental Regulations).

(5) The Town shall conform to and carry out a program of maintenance and inspection of all underground storage tanks, and shall maintain, repair, monitor, close, remove and or replace such tanks only in accordance with Environmental Regulations.

(6) Promptly after the Effective Date, but in all events prior to the earlier of (a) the Lease Effective Date and (b) any renewal, amendment, extension or replacement of the Congressional Lease, the Town shall (i) cause the parties to the Congressional Lease to execute, deliver and record the Congressional Lease Subordination Agreement in form and substance satisfactory to the Lender or (ii) terminate the Congressional Lease.

(u) *Voluntary Rent Abatement.* From and after the Lease Effective Date, except as required by law and the terms of Section 3.06 of the Lease Agreement, the Town shall not seek or assert a claim for abatement of rental payments under the Lease Agreement.

ARTICLE VII

NEGATIVE COVENANTS

Unless and until this Agreement shall have terminated and all Obligations shall have been paid in full, the Town (and the Authority as applicable) shall not directly or indirectly do any of the following, unless the Lender shall have otherwise consented in writing:

(a) *Amendments to Related Documents.* The Town and the Authority shall not enter into or consent to any amendments or waivers of, or supplements to, any Related Document or any waiver of the requirements thereof.

(b) *Liens.* The Town and the Authority shall not create or permit to exist any pledge, Lien or charge on (i) the TRANS, (ii) any part of the Leased Property except for Permitted Encumbrances or (iii) any moneys in the General Fund which could reasonably be expected to have a Material Adverse Effect.

(c) *Exempt Status.* The Town and the Authority shall not take any action or omit to take any action that, if taken or omitted, would adversely affect the excludability of interest payable with respect to the Tax-Exempt Note from the gross income of the holders thereof for purposes of Federal income taxation.

(d) *Permitted Investments.* The Town and the Authority shall not invest or cause to be invested any of the funds or accounts established in connection with the Related Documents in any investment other than as set forth in the Investment Policy and as permitted by State law.

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

(f) *Lender Information.* Neither the Town nor the Authority shall include any information concerning the Lender in any offering document unless the Lender shall have approved in writing of the description of the Lender contained in such document.

(g) *Swap Contracts.* Without the prior written consent of the Lender, in no event shall the Town enter into any Swap Contract.

(h) *Immunity from Jurisdiction.* To the fullest extent permitted by applicable law, with respect to its obligations arising under this Agreement or any other Related Document, each of the Town and the Authority irrevocably agrees that it will not assert or claim any immunity on the grounds of sovereignty or other similar grounds (including, without limitation, governmental immunity) from (i) any action, suit or other proceeding arising under or relating to this Agreement or any other Related Document, (ii) relief by way of injunction, order for specific performance or writ of mandamus or (iii) execution or enforcement of any judgment to which it or its revenues might otherwise be entitled in any such action, suit or other proceeding, and each of the Town and the Authority hereby irrevocably waives, to the fullest extent permitted by applicable law, with respect to itself and its revenues (irrespective of their use or intended use), all such immunity.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

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

(a) (i) the Authority shall fail to pay when due any principal of or interest on any Loan or any Notes or (ii) Town or the Authority shall fail to pay when due any other Obligations (other than those amounts set forth in the foregoing clause (a)(i)) hereunder;

(b) the Authority or the Town shall fail to observe or perform any covenant contained (or incorporated by reference) in any of Section 6.01(h), (i), (q), (r), (s) or (t) hereof or any of the covenants set forth in Article VII hereof;

(c) the Authority or the Town shall fail to observe or perform any covenant or agreement contained in this Agreement (other than those covered in any other Event of Default hereunder) or in any Related Document for thirty (30) days after the earlier of (i) the date of which written notice thereof has been given to the Town or the Authority, as applicable, by the Lender or (ii) the date on which any official of the Town or the Authority, as applicable, first becomes aware of such failure;

(d) any representation, warranty, certification or statement made by the Town or the Authority (or incorporated by reference) in this Agreement or any Related Document or in any certificate, financial statement or other document delivered pursuant to this Agreement or any Related Document shall prove to have been incorrect in any material respect when made (or deemed made);

(e) (i) the Town shall default on the payment of the principal of or interest on any Debt of the Town payable from the General Fund, any Enterprise Fund or otherwise with respect to Debt issued or incurred in an initial principal amount of \$50,000 or more; or (ii) any event or condition shall occur which results in Debt of the Town payable from the General Fund, any Enterprise Fund or otherwise with respect to Debt issued or incurred in an initial principal amount of \$50,000 or more being immediately due and payable or enables (or, with the giving of notice or lapse of time or both, would enable) the holder thereof or any Person acting on such holder’s behalf to accelerate the maturity thereof;

(g) the Town or the Authority shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any action to authorize any of the foregoing;

(h) an involuntary case or other proceeding shall be commenced against the Town or the Authority seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 60 days; or an order for relief shall be entered against the Town or the Authority under the federal bankruptcy laws or applicable state law as now or hereafter in effect;

(i) (i) a judgment or order for the payment of money in an amount equal to or greater than \$50,000 shall be rendered against the Town or the Authority and such judgment or order shall continue unsatisfied and unstayed for a period of 60 days, or (ii) the Town or the Authority shall have failed to promptly lift any execution, garnishment, or attachment pursuant to a judgment or order which could reasonably be expected to impair the ability of the Town or the Authority, as applicable, to carry on its related business;

(j) any material provision of this Agreement or any other Related Document shall at any time for any reason cease to be valid and binding on the Town or the Authority, or shall be declared to be null and void as a result of a final non-appealable judgment by a court of competent jurisdiction or by any Governmental Authority having jurisdiction, or the validity or enforceability thereof shall be contested by the Town or the Authority;

(k) there shall occur a termination, winding up, liquidation or dissolution of the Town or the Authority or the consolidation or merger of the Town or Authority with or into any Person;

(l) a moratorium shall have been declared or announced (whether or not in writing) by the Town or the Authority, or any Governmental Authority with respect to any Debt of the Town or the Authority;

(m) the powers of the Town or the Authority shall be limited in any way or the Resolutions, the Ordinances or the TRAN Act shall be modified or amended in any way without the prior written consent of the Lender which prevents the Town or the Authority, as applicable, from paying its Debts as they become due, including, without limitation, any Loans, the Notes or TRANs;

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

(o) any “event of default” under any Related Document (as defined respectively therein) shall have occurred.

then, and in every such event, the Lender (i) may, by notice to the Authority, terminate the Commitment as to the Loan or Loans, and the Commitment to the relevant extent shall thereupon terminate, and (ii) may, by notice to the Authority, demand that the Notes relating to the Loan or Loans be immediately due and payable by the Authority and the Authority shall thereupon be obligated to pay immediately the outstanding principal amount of such Notes (together with accrued interest thereon), without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each of the Town and the Authority; *provided* that in the case of any of the Events of Default specified in clause (g), (h), (k) or (l) above, without any notice to the Authority or any other act by the Lender, the Commitment shall thereupon immediately terminate and the Notes shall immediately be deemed to be due for payment by the Authority and the Authority shall be obligated to pay immediately the outstanding principal amount of the Notes (together with accrued interest thereon) and, together with the Town, as applicable, with all other amounts then owing hereunder, in each case, without presentment, demand, protest or notice of any kind, all of which are hereby waived by each of the Authority and the Town; the Lender shall also be entitled to exercise any and all other rights and remedies available at law or in equity. Promptly following the taking of any action or the occurrence of any event or condition referred to above, the Lender shall give notice thereof to the Authority, but the failure to give any such notice or any delay in giving any such notice shall not impair the validity or effect of any action or event or condition referred to above.

Section 8.02. Effect of Event of Default. The Notes and the Loans evidenced thereby shall be immediately due and payable upon becoming subject to payment by the Authority pursuant to Section 8.01 hereof. From and after the occurrence of an Event of Default, all amounts owing to the Lender and all amounts owing to the Noteholders hereunder and amounts owing on any Notes and the Loans evidenced thereby and all other obligations of the Town and the Authority, as applicable, hereunder shall bear interest at the Default Rate.

Section 8.03. Right of Setoff. Upon the occurrence of an Event of Default, the Lender and its Affiliates may, at any time and from time to time, without notice to the Town or the Authority or any other Person (any such notice being expressly waived), set off and appropriate and apply, against and on account of, any obligations and liabilities of each of the Town and the Authority to the Lender or its Affiliates arising under or connected with this Agreement and the Related Documents, without regard to whether or not the Lender shall have made any demand therefor, and although such obligations and liabilities may be contingent or unmatured, any and all deposits (general or special, including but not limited to indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts or accounts subject to a prior lien in favor of a creditor extending credit to the Town or the Authority) and any other indebtedness or other payment obligation at any time held or owing by the Lender and its Affiliates.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Amendments, Etc. Any provision of this Agreement or the Notes may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by the

Authority, the Town, the Lender, and, unless the Commitment shall have terminated, any party holding all or any portion of the Commitment; *provided* that no such amendment or waiver shall (i) increase the Commitment or shorten the duration of the Commitment or affect any right or remedy to terminate the Commitment without the written consent of each party affected thereby, (ii) reduce the principal amount of any Loan or reduce the rate of interest thereon, or reduce any fees payable hereunder, without the written consent of each Noteholder affected thereby; (iii) postpone the scheduled date of payment of the principal amount of any Loan, or any interest thereon, or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment, without the written consent of each Noteholder affected thereby, or (iv) change any of the provisions of this Section.

Section 9.02. Notices. All notices, requests, consents and other communications to either party hereunder shall be in writing (including bank wire, facsimile transmission or similar writing) and shall be given to such party at its address or facsimile number set forth on the signature page hereof or at such other address or facsimile number as such party may hereafter specify for the purpose by at least five Business Days' prior notice to the other party. Each such notice, request, consent or other communication shall be effective (i) if given by facsimile, when such facsimile is transmitted to the facsimile number specified in this Section and the appropriate answerback is received, (ii) if given by mail, 72 hours after such communication is deposited in the mails with first class postage prepaid, addressed as aforesaid or (iii) if given by any other means, when delivered at the address specified in this Section; *provided* that notices to the Lender under Article II or Article III shall not be effective until received.

Lender: JPMorgan Chase Bank, National Association
383 Madison Avenue, 3rd Floor
New York, New York 10179
Telephone: (212) 270-2198/(212) 270-0504
Telecopy: (917) 456-3538/(917) 464-9485
Attention: James Millard and Shawn Laljit
E-mail: james.g.millard@jpmorgan.com
shawn.laljit@jpmorgan.com

With a copy to: JPMorgan Chase Bank, National Association
500 Stanton Christiana Road, NCC5, F001
Newark, Delaware 19713-2107
Telephone: (302) 634-9588
Telecopy: (302) 634-4733

Attention: Brandon T. Allen, Account Manager

E-mail: Brandon.t.allen@chase.com

With copies to:

David J Campbell, david.j.campbell@jpmorgan.com

Selina Au Yang, Selina.au.yang@jpmorgan.com

Public finance inbox, public.finance.notices@jpmorgan.com

Wire instructions:

JPMorgan Chase Bank, National Association

ABA: 021-000-021

Account Number: 9008113381H4493

Reference: Town of Apple Valley

Attention: Loan & Agency

If to Town:

Town of Apple Valley, California

14955 Dale Evans Parkway

Apple Valley, California 92307

Telephone: (760) 240-7000

Attention: Town Manager

E-mail: drobertson@applevalley.org

If to Authority:

Apple Valley Public Financing Authority

14955 Dale Evans Parkway

Apple Valley, California 92307

Telephone: (760) 240-7000

Attention: Town Manager

E-mail: drobertson@applevalley.org

Section 9.03. No Waiver; Cumulative Remedies; Enforcement; Conflict. No failure by the Lender to exercise, and no delay by the Lender in exercising, any right, remedy, power or privilege hereunder or under any other Related Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided and provided under each other Related Document are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

To the extent of any conflict between this Agreement, the Resolutions and any other Related Documents, this Agreement shall control solely as between the Town, the Authority and the Lender.

Section 9.04. Indemnification.

(a) *Indemnification by the Town.* To the fullest extent permitted by law, the Authority agrees to indemnify and hold harmless the Lender and each of its Related Parties (each an “Indemnatee”) from and against any and all claims, damages, losses, liabilities, reasonable costs or expenses whatsoever which an Indemnatee may incur (or which may be claimed against an Indemnatee by any Person) by reason of or in connection with (i) the execution and delivery of and consummation of the transactions contemplated hereunder and this Agreement and the other Related Documents, including, without limitation, (ii) the issuance of Notes (including, without limitation, by reason of any untrue statement or alleged untrue statement contained or incorporated by reference in any offering memorandum or other offering document, or in any supplement or amendment thereof, prepared with respect to the Notes, or the omission or alleged omission to state therein a material fact necessary to make such statements, in the light of the circumstances under which they are or were made, not misleading), (iii) the execution and delivery of, performance or failure to perform, or payment or failure to pay by any Person under, this Agreement or any Related Document, (iv) any Loan or the use or proposed use of the proceeds therefrom (including any refusal by a Lender to honor a demand for payment hereunder if the documents presented in connection with such demand do not strictly comply with the terms hereof), or (v) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Town or the Authority, and regardless of whether any Indemnatee is a party thereto; *provided, however,* that the Authority shall not be required to indemnify an Indemnatee for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, caused by the willful misconduct or gross negligence of the Lender. Nothing in this Section 9.04(a) is intended to limit the obligations of the Town or the Authority under the Notes or of the Town to pay its Obligations hereunder and under the Related Documents.

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

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

(d) *Survival.* The agreements in this Section shall survive the termination of this Agreement and the repayment, satisfaction or discharge of the Loans and all other Obligations hereunder.

Section 9.05. Payments Set Aside. To the extent that any payment by or on behalf of the Town or the Authority is made to the Lender, or the Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred.

Section 9.06. Successors and Assigns. (a) Whenever in this Agreement any of the parties hereto is referred to, such reference shall, subject to the last sentence of this Section, be deemed to include the successors and assigns of such party, and all covenants, promises and agreements by or on behalf of the Town or the Authority which are contained in this Agreement and the Notes shall inure to the benefit of the successors and assigns of the Lender. Neither the Authority nor the Town may transfer its rights or obligations under this Agreement and the Notes without the prior written consent of the Lender. The Lender may transfer some or all of its rights and obligations under this Agreement with the prior written consent of the Authority and the Town (which consent shall not be withheld unreasonably); *provided* that (i) the transfer shall not cause the lowering, withdrawal or suspension of any ratings then existing on the Notes, and (ii) the Lender shall be responsible for all costs resulting from the transfer. This Agreement and the Notes are made solely for the benefit of the Town, the Authority and the Lender, and no other person or entity shall have any right, benefit or interest under or because of the existence of this Agreement and the Notes.

(b) Notwithstanding the foregoing, the Lender shall be permitted to grant to one or more financial institutions (each a "*Participant*") a participation or participations in all or any part of the Lender's rights and benefits under this Agreement and the Notes on a participating basis but not as a party to this Agreement and the Notes (a "*Participation*"), without the consent of the Town or the Authority; *provided* that the Lender agrees to give the Authority and the Town notice of the grant of any Participation upon the effectiveness thereof. In the event of any such grant by the Lender of a Participation to a Participant, whether or not upon notice to the Town or the Authority, the Lender shall remain responsible for the performance of its obligations hereunder, and the Lender shall continue to deal solely and directly with the Lender in connection with the Lender's rights and obligations under this Agreement and the Notes. Each of the Town and the Authority agrees that each Participant shall, to the extent of its Participation, be entitled to the benefits of this Agreement and the Notes as if such Participant were the Lender; *provided* that no Participant shall have the right to declare, or to take actions in response to, an Event of Default under Article VIII hereof.

(c) The Lender may assign and pledge all or any portion of the obligations owing to it to any Federal Reserve Bank or the United States Treasury as collateral security pursuant to Regulation A of the Board of Governors of the Federal Reserve System and any Operation Circular issued by such Federal Reserve Bank; *provided* that any payment in respect of such assigned obligations made by the Town or the Authority to the Lender in accordance with the terms of this Agreement shall satisfy the obligations thereof hereunder in respect of such assigned obligation to the extent of such payment. No such assignment shall release the Lender from its obligations hereunder.

Section 9.07. Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Related Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 9.08. Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Related Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Lender, regardless of any investigation made by the Lender or on its behalf and notwithstanding that the Lender may have had notice or knowledge of any Default at the time of any payment hereunder and shall continue in full force and effect as long as any Obligation hereunder shall remain unpaid or unsatisfied.

Section 9.09. Severability. If any provision of this Agreement or the other Related Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Related Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 9.10. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CALIFORNIA.

Section 9.11. Waiver of Jury Trial. (a) EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER RELATED DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF

LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER RELATED DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(b) *Judicial Reference Provisions.* (i) Any and all disputes, claims and controversies arising out of the Related Documents or the transactions contemplated thereby (including, but not limited to, actions arising in contract or tort and any claims by a party to this Agreement (collectively, the “Parties”) against the Lender related in any way to the financing) (individually, a “Dispute”) that are brought before a forum in which pre-dispute waivers of the right to trial by jury are invalid under applicable law shall be subject to the terms of this Section 9.11(b) in lieu of the jury trial waivers otherwise provided in the Related Documents.

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

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

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

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

(vi) Nothing in this Section 9.11(b) shall be deemed to apply to or limit the right of the Lender (a) to exercise self help remedies such as (but not limited to) setoff, or (b) to foreclose judicially or nonjudicially against any real or personal property collateral, or to exercise judicial or nonjudicial power of sale rights, (c) to obtain from a court provisional or ancillary remedies (including, but not limited to, injunctive relief, a writ of possession, prejudgment attachment, a protective order or the appointment of a receiver), or (d) to pursue rights against a Party in a third-party proceeding in any action brought against the Lender (including actions in bankruptcy court). The Lender may exercise the rights set forth in the foregoing clauses (a) through (d), inclusive, before, during or after the pendency of any judicial reference proceeding. Neither the exercise of self help remedies nor the institution or maintenance of an action for foreclosure or

provisional or ancillary remedies or the opposition to any such provisional remedies shall constitute a waiver of the right of any Party, including, but not limited to, the claimant in any such action, to require submission to judicial reference the merits of the Dispute occasioning resort to such remedies. No provision in the Related Documents regarding submission to jurisdiction and/or venue in any court is intended or shall be construed to be in derogation of the provisions in any Related Document for judicial reference of any of Dispute.

(vii) If a Dispute includes multiple claims, some of which are found not subject to this Section 9.11(b), the Parties shall stay the proceedings of the Disputes or part or parts thereof not subject to this Section 9.11(b) until all other Disputes or parts thereof are resolved in accordance with this Section 9.11(b). If there are Disputes by or against multiple parties, some of which are not subject to this Section 9.11(b), the Parties shall sever the Disputes subject to this Section 9.11(b) and resolve them in accordance with this Section 9.11(b).

(viii) During the pendency of any Dispute which is submitted to judicial reference in accordance with this Section 9.11(b), each of the Parties to such Dispute shall bear equal shares of the fees charged and costs incurred by the referee in performing the services described in this Section 9.11(b). The compensation of the referee shall not exceed the prevailing rate for like services. The prevailing party shall be entitled to reasonable court costs and legal fees, including customary attorney fees, expert witness fees, paralegal fees, the fees of the referee and other reasonable costs and disbursements charged to the party by its counsel, in such amount as is determined by the Referee.

(ix) In the event of any challenge to the legality or enforceability of this Section 9.11(b), the prevailing Party shall be entitled to recover the costs and expenses from the non-prevailing Party, including reasonable attorneys' fees, incurred by it in connection therewith.

(x) THE PROVISIONS OF THIS SECTION 9.11(B) CONSTITUTE A "REFERENCE AGREEMENT" BETWEEN OR AMONG THE PARTIES WITHIN THE MEANING OF AND FOR PURPOSES OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638.

Section 9.12. No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby and under the Lease Documents (including in connection with any amendment, waiver or other modification hereof or of any other Related Document), the Town and the Authority acknowledge and agree, and acknowledges its Affiliates' understanding, that: (i) each of the Town, the Authority and the Lender has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (ii) each of the Town, the Authority and the Lender is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Related Documents.

Section 9.13. Electronic Execution of Assignments and Certain Other Documents. The words "execution," "signed," "signature," and words of like import in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law,

including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

Section 9.14. Government Regulations. (a) The Lender is subject to the Act (as hereinafter defined) and hereby notifies each of the Authority and the Town that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Act”), the Lender is required to obtain, verify, and record information that identifies the Authority and the Town which information includes the name and address of the Authority and the Town and other information that will allow the Lender to identify the Authority and the Town in accordance with the Act.

(b) Each of the Authority and the Town shall (a) ensure that neither the Authority nor the Town, nor any of their respective officers and directors, is or will be listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by OFAC or the Department of the Treasury or included in any Executive Order that prohibits or limits the Lender from providing any funding or extending any credit to the Authority or the Town or from otherwise conducting business with the Authority or the Town and (b) ensure that the proceeds of any advance or extension of credit hereunder will not be used to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto. Each of the Authority and the Town shall provide documentary and other evidence of its identity as may be requested by the Lender at any time to enable the Lender to verify the identity of the Authority and the Town or to comply with any applicable law or regulation, including, without limitation, Section 326 of the Act.

Section 9.15. Unconditional Obligations. The obligations of the Town and the Authority under this Agreement shall be absolute, unconditional, irrevocable and payable strictly in accordance with the terms of the Resolutions and this Agreement, under all circumstances whatsoever, including, without limitation, the following:

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

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

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

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

(e) payment by the Lender of a Borrowing against presentation of a request which the Lender in good faith determines to be valid, sufficient or genuine and which subsequently is found not to comply with the terms of this Agreement; and

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

Section 9.16. Expenses and Taxes. The Town will promptly pay (i) the reasonable fees and expenses of counsel to the Lender incurred in connection with the preparation, execution, delivery, and administration of this Agreement and the other Related Documents, (ii) the reasonable out-of-pocket expenses of the Lender incurred in connection with the preparation, execution, delivery, and administration of this Agreement and the other Related Documents, (iii) the reasonable fees and disbursements of counsel to the Lender with respect to advising such Lender as to the rights and responsibilities under this Agreement, and (iv) all reasonable costs and expenses, if any, in connection with any amendment or the enforcement of this Agreement and any other documents which may be delivered in connection herewith or therewith, including in each case the fees and disbursements of counsel to the Lender. In addition, the Town shall pay any and all stamp and other taxes and fees payable or determined to be payable in connection with the execution, delivery, filing, and recording of this Agreement and the security contemplated by the Related Documents and any Related Documents and agrees to hold the Lender harmless from and against any and all liabilities with respect to or resulting from any delay in paying or omission to pay such taxes and fees. In addition, the Town agrees to pay, after the occurrence of an Event of Default, all costs and expenses (including attorneys' fees and costs of settlement) incurred by the Lender in enforcing any obligations or in collecting any payments due from the Town hereunder by reason of such Event of Default or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a "workout" or of any insolvency or bankruptcy proceedings. The obligations of the Town under this Section 9.17 shall survive the termination of this Agreement.

Section 9.17. Modification, Amendment, Waiver, Etc. No modification, amendment or waiver of any provision of this Agreement shall be effective unless the same shall be in writing and signed in accordance with Section 9.01 hereof.

Section 9.18. Dealing with the Town and the Authority. The Lender and its Affiliates may accept deposits from, extend credit to and generally engage in any kind of banking, trust or other business with the Town or the Authority, the regardless of the capacity of the Lender hereunder.

Section 9.19. Table of Contents; Headings. The table of contents and the section and subsection headings used herein have been inserted for convenience of reference only and do not constitute matters to be considered in interpreting this Agreement.

[SIGNATURE PAGES TO FOLLOW]

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

TOWN OF APPLE VALLEY, CALIFORNIA

By _____
Name: _____
Title: _____

APPLE VALLEY PUBLIC FINANCING AUTHORITY

By _____
Name: _____
Title: _____

JPMORGAN CHASE BANK, NATIONAL
ASSOCIATION

By _____
Name: _____
Title: _____

EXHIBIT A

FORM OF NOTICE OF BORROWING

[Date]

To: JPMorgan Chase Bank, National Association
383 Madison Avenue, 3rd Floor

New York, New York 10179

Telephone: (212) 270-2198/(212) 270-0504

Telecopy: (917) 456-3538/(917) 464-9485

Attention: James Millard and Shawn Laljit

E-mail: james.g.millard@jpmorgan.com

shawn.laljit@jpmorgan.com

WITH A COPY TO:

JPMorgan Chase Bank, National Association

500 Stanton Christiana Road, NCC5, F001

Newark, Delaware 19713-2107

Telephone: (302) 634-9588

Telecopy: (302) 634-4733

Attention: Brandon T. Allen, Account Manager

E-mail: Brandon.t.allen@chase.com

WITH COPIES TO:

David J Campbell, david.j.campbell@jpmorgan.com

Selina Au Yang, Selina.au.yang@jpmorgan.com

Public finance inbox, public.finance.notices@jpmorgan.com

FROM: Apple Valley Public Finance Authority (the “*Authority*”)

Council Meeting Date: 10/09/2018

Re: Revolving Credit Agreement (as amended, supplemented, restated or otherwise modified from time to time, the "Credit Agreement") dated as of October 1, 2018, among the Lender, the Authority and the Town of Apple Valley

We hereby give notice, pursuant to Section 2.02(a) of the Credit Agreement, of the following proposed Borrowing:

Date of Borrowing [Date]
Loan Principal Amount..... [\$xx,xxx,xxx]
Amount of Loans Outstanding [\$xxx,xxx,xxx]
The Loan Maturity Date [Date]

The Proceeds of such Loan are to be wire transferred to the following account:

The Loan constituting such Borrowing is to be [Taxable Loan] or [Tax-Exempt Loan]

The Loan constituting such Borrowing is to be [Borrowing]

The rates of interest on the Loan will not exceed the maximum rate permitted by law.

Terms used herein have the meanings assigned to them in the Credit Agreement.

APPLE VALLEY PUBLIC FINANCING AUTHORITY

By: _____
Name: _____
Title: _____

EXHIBIT B

FORM OF NOTICE OF CHANGE OF LENDER ACCOUNT

[Date]

To: JPMorgan Chase Bank, National Association
383 Madison Avenue, 3rd Floor

New York, New York 10179

Telephone: (212) 270-2198/(212) 270-0504

Telecopy: (917) 456-3538/(917) 464-9485

Attention: James Millard and Shawn Laljit

E-mail: james.g.millard@jpmorgan.com

shawn.laljit@jpmorgan.com

WITH A COPY TO:

JPMorgan Chase Bank, National Association

500 Stanton Christiana Road, NCC5, F001

Newark, Delaware 19713-2107

Telephone: (302) 634-9588

Telecopy: (302) 634-4733

Attention: Brandon T. Allen, Account Manager

E-mail: Brandon.t.allen@chase.com

WITH COPIES TO:

David J Campbell, david.j.campbell@jpmorgan.com

Selina Au Yang, Selina.au.yang@jpmorgan.com

Public finance inbox, public.finance.notices@jpmorgan.com

FROM: Apple Valley Public Finance Authority (the “*Authority*”)

Council Meeting Date: 10/09/2018

Re: Revolving Credit Agreement (as amended, supplemented, restated or otherwise modified from time to time, the "*Credit Agreement*")
dated as of October __, 2018, among
the Lender, the Authority and the Town of Apple Valley

We hereby give notice, pursuant to Section 2.02(c) of the Credit Agreement, of a change to the account to which the proceeds of Borrowings are to be wire transferred. From and after the date hereof, the proceeds of all Borrowings should be wire transferred to the following account:

[account information to be inserted]

Terms used herein have the meanings assigned to them in the Credit Agreement.

APPLE VALLEY PUBLIC FINANCE AUTHORITY

By: _____
Name: _____
Title: _____

EXHIBIT C

TRANSFER OF THIS NOTE IS RESTRICTED AS SET FORTH IN THE AGREEMENT

FORM OF TAXABLE NOTE

APPLE VALLEY FINANCING AUTHORITY PROMISSORY NOTE

\$10,000,000

Apple Valley, California

October __, 2018

For value received, the APPLE VALLEY PUBLIC FINANCING AUTHORITY (the “*Authority*”), is a joint exercise of powers authority duly organized and existing under and pursuant to the provisions of Articles I through IV (commencing with section 6500) of Chapter 5 of Division 7 of Title I of the California Government Code, promises to pay, solely from the funds hereafter referred to, to JPMORGAN CHASE BANK, NATIONAL ASSOCIATION (the “*Lender*”), at the address provided in the Agreement (hereinafter defined), (i) the principal sum of TEN MILLION DOLLARS (\$10,000,000) or, if less, the aggregate unpaid principal amount of all Taxable Loans made by the Lender to the Authority, payable at such times as are specified in the Agreement, and (ii) interest on the unpaid principal amount of each Taxable Loan made by the Lender, from the date of each such Taxable Loan until such principal amount is paid in full, at such interest rates, and payable at such times, as are specified in the Agreement, in lawful money of the United States of America, in federal or other immediately available funds, from the date hereof until this Note is paid in full, in like money and funds at such office.

The Authority promises to make all other payments owed by it under the Agreement. All capitalized terms used herein and not otherwise defined herein shall have the meanings specified in the Agreement.

This Note is subject to prepayment and amounts prepaid prior to the last day of the Revolving Credit Period may be reborrowed, all pursuant to the terms and under the conditions of the Revolving Credit Agreement dated as of October __, 2018 (as amended, supplemented, restated or otherwise modified from time to time, the “*Agreement*”), between the Authority and the Lender. Reference is made to the Agreement for provisions as to the prepayment hereof and for reborrowing. Reference is also made to the Agreement for provisions providing for additional interest and other amounts to be payable under certain circumstances. If the Noteholder enforces this Note upon default, the Authority shall reimburse the Noteholder for reasonable costs and expenses incurred by the Noteholder in collection, including attorneys’ fees and expenses as set out in Section 2.06 of the Agreement. This Note shall be construed in accordance with and governed by the internal laws of the State of California.

The parties hereto, including the undersigned maker and all guarantors, endorsers and pledgors that may exist at any time with respect hereto, hereby waive presentment, demand, notice, protest and all other demands and notices in connection with the delivery, acceptance, performance

and enforcement of this Note and assent to the extensions of the time of payment or forbearance or other indulgence without notice.

This Note, including the interest hereon, is a limited obligation of the Authority and secured as set forth in the Agreement, the Authority Resolution and other Related Documents. Further reference is made to the Agreement and the Authority Ordinance for the provisions relating to the security of this Note and the duties and obligations of the Authority.

It is hereby certified, recited and declared that all conditions, acts and things essential to the validity of this Note exist, have happened and have been done and that every requirement of law affecting the issuance hereof has been duly complied with.

[SIGNATURE PAGE TO FOLLOW]

Made and executed at Apple Valley, California, as of the date and year first above written.

APPLE VALLEY PUBLIC FINANCING AUTHORITY

By: _____
Its:

[Signature Page to Taxable Note]

EXHIBIT D

TRANSFER OF THIS NOTE IS RESTRICTED AS SET FORTH IN THE AGREEMENT

FORM OF TAX-EXEMPT NOTE

APPLE VALLEY FINANCING AUTHORITY PROMISSORY NOTE

\$10,000,000

Apple Valley, California

October __, 2018

For value received, the APPLE VALLEY PUBLIC FINANCING AUTHORITY (the “*Authority*”), a joint exercise of powers authority duly organized and existing under and pursuant to the provisions of Articles I through IV (commencing with section 6500) of Chapter 5 of Division 7 of Title I of the California Government Code, promises to pay, solely from the funds hereafter referred to, to JPMORGAN CHASE BANK, NATIONAL ASSOCIATION (the “*Lender*”), at the address provided in the Agreement (hereinafter defined), (i) the principal sum of TEN MILLION DOLLARS (\$10,000,000) or, if less, the aggregate unpaid principal amount of all Tax-Exempt Loans related made by the Lender to the Authority, payable at such times as are specified in the Agreement, and (ii) interest on the unpaid principal amount of each Tax-Exempt Loan made by the Lender, from the date of each such Tax-Exempt Loan until such principal amount is paid in full, at such interest rates, and payable at such times, as are specified in the Agreement, in lawful money of the United States of America, in federal or other immediately available funds, from the date hereof until this Note is paid in full, in like money and funds at such office.

The Authority promises to make all other payments owed by it under the Agreement. All capitalized terms used herein and not otherwise defined herein shall have the meanings specified in the Agreement.

This Note is subject to prepayment and amounts prepaid prior to the last day of the Revolving Credit Period may be reborrowed, all pursuant to the terms and under the conditions of the Revolving Credit Agreement dated as of October __, 2018 (as amended, supplemented, restated or otherwise modified from time to time, the “*Agreement*”), among the Authority, the Town of Apple Valley, California, and the Lender. Reference is made to the Agreement for provisions as to the prepayment hereof and for reborrowing. Reference is also made to the Agreement for provisions providing for additional interest and other amounts to be payable under certain circumstances. If the Noteholder enforces this Note upon default, the Authority shall reimburse the Noteholder for reasonable costs and expenses incurred by the Noteholder in collection, including attorneys’ fees and expenses as set out in Section 2.06 of the Agreement. This Note shall be construed in accordance with and governed by the internal laws of the State of California.

The parties hereto, including the undersigned maker and all guarantors, endorsers and pledgors that may exist at any time with respect hereto, hereby waive presentment, demand, notice, protest and all other demands and notices in connection with the delivery, acceptance, performance

and enforcement of this Note and assent to the extensions of the time of payment or forbearance or other indulgence without notice.

This Note, including the interest hereon, is a limited obligation of the Authority and secured as set forth in the Agreement, the Authority Resolution and other Related Documents. Further reference is made to the Agreement and the Authority Ordinance for the provisions relating to the security of this Note and the duties and obligations of the Authority.

It is hereby certified, recited and declared that all conditions, acts and things essential to the validity of this Note exist, have happened and have been done and that every requirement of law affecting the issuance hereof has been duly complied with.

[SIGNATURE PAGE TO FOLLOW]

Made and executed at Apple Valley, California, as of the date and year first above written.

APPLE VALLEY PUBLIC FINANCING AUTHORITY

By: _____
Its:

[Signature Page to Tax-Exempt Note]

EXHIBIT E

COMPLIANCE CERTIFICATE

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

JPMorgan Chase Bank, National Association
383 Madison Avenue, 3rd Floor

New York, New York 10179

Telephone: (212) 270-2198/(212) 270-0504

Telecopy: (917) 456-3538/(917) 464-9485

Attention: James Millard and Shawn Laljit

E-mail: james.g.millard@jpmorgan.com

shawn.laljit@jpmorgan.com

With a copy to:

JPMorgan Chase Bank, National Association

500 Stanton Christiana Road, NCC5, F001

Newark, Delaware 19713-2107

Telephone: (302) 634-9588

Telecopy: (302) 634-4733

Attention: Brandon T. Allen, Account Manager

E-mail: Brandon.t.allen@chase.com

With copies to:

David J Campbell, david.j.campbell@jpmorgan.com

Selina Au Yang, Selina.au.yang@jpmorgan.com

Council Meeting Date: 10/09/2018

Ladies and Gentlemen:

We refer to the Revolving Credit Agreement, dated as of October __, 2018 (as amended, restated and supplemented from time to time, the “*Revolving Credit Agreement*”), by and among the Town of Apple Valley, California (the “*Town*”), Apple Valley Public Financing Authority (the “*Authority*”) and JPMorgan Chase Bank, National Association (and its successors and assigns, the “*Lender*”). All capitalized terms herein having the meanings ascribed thereto in the Revolving Credit Agreement.

The undersigned authorized representative of the Town hereby certifies as of the date hereof that he/she is the director of finance of the Town, and that, as such, he/she is authorized to execute and deliver this Certificate to the Lender on the behalf of the Town, and that:

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

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

[Start with the following as paragraph 1 for semi-annual-end compliance certificates]

[2.][1.] The undersigned has reviewed and is familiar with the terms of the Revolving Credit Agreement and has reviewed the Town’s obligations thereunder and under the other Related Documents and has made, or has caused to be made under his/her supervision, a detailed review of the transactions and condition (financial or otherwise) of the Town during the accounting period covered by the attached financial statements.

[3.][2.] The examination described in paragraph 2 herein did not disclose, and I have no knowledge of, the existence of any condition or event which constitutes an Event of Default or Default under the Revolving Credit Agreement or a default or event of default under any other Related Document, during or at the end of the accounting period covered by the attached financial statements or as of the date of this Certificate, except as set forth in a separate attachment, if any, to this Certificate, describing in detail, the

nature of the condition or event, the period during which it has existed and the action which the Town has taken, is taking, or proposes to take with respect to each such condition or event.

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

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

5. The Town has kept, observed, performed and fulfilled each and every covenant, provision and condition of the Revolving Credit Agreement on its part to be performed and is not in default in the performance or observance of any of the terms, covenants, provisions or conditions of the Revolving Credit Agreement, including, but not limited to, the covenants contained in Section 6.01(s) of the Revolving Credit Agreement, as demonstrated on Schedule 2 attached hereto. The financial covenant analyses and information set forth on Schedule 2 attached hereto are true and accurate on and as of the date of this Certificate.

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

TOWN OF APPLE VALLEY, CALIFORNIA

By:

Name: _____

Title: _____

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:
STRADLING YOCCA CARLSON & RAUTH
660 Newport Center Drive, Suite 1600
Newport Beach, California 92660
Attn: Brian P. Forbath, Esq.

[Space above for Recorder's use.]

This document is recorded for the benefit of the Town of Apple Valley and the recording is fee-exempt under Section 27383 of the Government Code.

LEASE AGREEMENT

by and between

TOWN OF APPLE VALLEY

and

APPLE VALLEY PUBLIC FINANCING AUTHORITY

Dated as of ____ __, 2019

TABLE OF CONTENTS

Page

ARTICLE I

DEFINITIONS

Section 1.01. Definitions.....94

ARTICLE II

LEASE OF PROPERTY; TERM

Section 2.01. Lease of Property97
Section 2.02. Term.....98

ARTICLE III

RENTAL PAYMENTS

Section 3.01. Base Rental Payments.....98
Section 3.02. Additional Rental Payments100
Section 3.03. Fair Rental Value100
Section 3.04. Payment Provisions.....100
Section 3.05. Appropriations Covenant101
Section 3.06. Abatement.....101

ARTICLE IV

MAINTENANCE OF PROPERTY; ALTERATIONS AND ADDITIONS

Section 4.01. Maintenance and Utilities102
Section 4.02. Additions to Property.....102
Section 4.03. Installation of Town’s Equipment102

ARTICLE V

INSURANCE

Section 5.01. Public Liability and Property Damage.....103
Section 5.02. Worker’s Compensation103
Section 5.03. Hazard Insurance103
Section 5.04. Rental Interruption Insurance104
Section 5.05. Title Insurance105
Section 5.06. General Insurance Provisions105
Section 5.07. Cooperation.....106

ARTICLE VI

DEFAULTS AND REMEDIES

Section 6.01. Defaults and Remedies107
Section 6.02. Waiver.....110

ARTICLE VII

EMINENT DOMAIN; PREPAYMENT

Section 7.01. Eminent Domain110
Section 7.02. Damage or Destruction110
Section 7.03. Prepayment111

ARTICLE VIII

COVENANTS

Section 8.01. Right of Entry112
Section 8.02. Liens.....112
Section 8.03. Quiet Enjoyment112
Section 8.04. Authority Not Liable.....113
Section 8.05. Assignment and Subleasing113
Section 8.06. Title to Property114
Section 8.07. Fair Rental Value114
Section 8.08. Representations of the Town114
Section 8.09. Representation of the Authority.....115
Section 8.10. Compliance with Law, Regulations, Etc.....115
Section 8.11. Environmental Compliance116
Section 8.12. No Vacation117

ARTICLE IX

NO CONSEQUENTIAL DAMAGES; USE OF THE PROPERTY; SUBSTITUTION OR RELEASE

Section 9.01. No Consequential Damages118
Section 9.02. Use of the Property118
Section 9.03. Substitution or Release of the Property118

ARTICLE X

MISCELLANEOUS

Section 10.01. Law Governing119
Section 10.02. Notices119
Section 10.03. Validity and Severability120

Section 10.04.	Net-Net-Net Lease	121
Section 10.05.	Taxes	121
Section 10.06.	Section Headings	121
Section 10.07.	Amendments	121
Section 10.08.	Third-Party Beneficiaries.....	121
Section 10.09.	Assignment	121
Section 10.10.	Execution in Counterparts.....	122
EXHIBIT A	DESCRIPTION OF PROPERTY	A-1

LEASE AGREEMENT

THIS LEASE AGREEMENT (this “Lease Agreement”), executed and entered into as of _____, 2019, is by and between the TOWN OF APPLE VALLEY (the “Town”), a municipal corporation of the State of California duly organized and existing under and by virtue of the Constitution and laws of the State of California, as lessee, and the APPLE VALLEY PUBLIC FINANCING AUTHORITY (the “Authority”), a joint powers authority duly organized and existing under the laws of the State of California, as lessor.

RECITALS

WHEREAS, the Town has issued its 2018-19 Taxable Tax and Revenue Anticipation Note (the “Note”) in order to provide short-term financing for the Town, and payments on the Note secure payments on a revolving line of credit under a Revolving Credit Agreement dated as of _____, 2018 among JPMorgan Chase Bank, National Association (together with its successors and assigns, the “Bank”), the Town and the Authority (as supplemented and amended, the “Line of Credit”); and

WHEREAS, in order to provide additional security for or, or increase the amount available under, the Line of Credit, the Town has leased certain real property containing the Town’s Town Hall, Recreation Center and associated surface parking located at 14955 Dale Evans Parkway in the Town, and, as applicable, the improvements thereto described in Exhibit A hereto (the “Property”), to the Authority pursuant to a Site and Facilities Lease, dated as of the date hereof (as amended, the “Site Lease”), and the Town hereby subleases the Property back from the Authority pursuant to this Lease Agreement;

WHEREAS, to induce the Bank to increase the amount available under the Line of Credit, the Town and the Authority have determined that it would be in the best interests of the Town and the Authority to additionally secure payments on the Line of Credit;

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

NOW, THEREFORE, in consideration of the premises and of the mutual agreements and covenants contained herein and in the Line of Credit and for other valuable consideration, the parties hereto do hereby agree as follows:

ARTICLE 1

DEFINITIONS

Section 1.1 Definitions. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Lease Agreement, have the meanings herein specified, which meanings shall be equally applicable to both the singular and plural forms of any of the terms herein defined.

“Additional Rental Payments” means all amounts payable by the Town as Additional Rental Payments pursuant to Section 3.02 hereof.

“Applicable Spread” has the meaning ascribed to such term in the Revolving Credit Agreement.

“Asbestos Containing Materials” means material in friable form containing more than 1% of the asbestiform varieties of (a) chrysotile (serpentine), (b) crocidolite (ricbeckite), (c) amosite (cummington-itegrinerite), (d) anthophyllite, (e) tremolite, and (f) actinolite.

“Assignment Agreement” means the Assignment Agreement by and between the Authority and the Bank dated the Lease Effective Date, as amended or supplemented.

“Authority” means the Apple Valley Public Financing Authority, a joint powers authority duly organized and existing under the laws of the State of California.

“Bank” means JPMorgan Chase Bank, National Association and its successors and assigns.

“Base Rental Deposit Date” means the 15th day of each month, provided if such date is not a Business Day, the first Business Day following the 15th day of each month.

“Base Rental Payments” means all amounts payable to the Authority from the Town as Base Rental Payments pursuant to Section 3.01 hereof.

“Default Rate” has the meaning set forth in the Revolving Credit Agreement.

“Environmental Regulations” means all laws (including common laws) and regulations, now or hereafter in effect, with respect to protection of human health or the environment, including those relating to Hazardous Materials (as hereinafter defined), including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. Section 9601, *et seq.*) (together with the regulations promulgated thereunder, “CERCLA”), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, *et seq.*) (together with the regulations promulgated thereunder, “RCRA”), the Emergency Planning and Community Right-to-Know Act, as amended (42 U.S.C. Section 11001, *et seq.*) (together with the regulations promulgated thereunder, “Title III”), the Clean Water Act, as amended (33 U.S.C. Section 1321, *et seq.*) (together with the regulations promulgated thereunder, “CWA”), the Clean Air Act, as amended (42 U.S.C. Section 7401, *et seq.*) (together with the regulations promulgated thereunder, “CAA”) and the Toxic Substances Control Act, as amended (15 U.S.C. Section 2601 *et seq.*) (together with the regulations promulgated thereunder, “TSCA”), and any state or local similar laws and regulations and any so-called local, state or federal “superfund” or “superlien” law.

“Excess Amount” means the difference in each Rental Period between the Fair Rental Value of the Property and the Rental Payments actually paid by the Town during such Rental Period, to the extent that such Rental Payments actually paid are less than the Fair Rental Value.

“Extended Lease Term” has the meaning set forth in Section 3.06 hereof.

“Fair Rental Value” means, with respect to the Property, the annual fair rental value thereof, as set forth in Section 3.03 hereof.

“Governmental Authority” means any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government, or any arbitrator, mediator or other person with authority to bind a party at law.

“Independent Insurance Consultant” means the Town’s Risk Manager, or a nationally recognized independent actuary, insurance company or broker that has actuarial personnel experienced in the area of insurance for which the Town is to be self-insured, as may from time to time be designated by the Town.

“Interest Payment Date” has the meaning assigned to such term in the Revolving Credit Agreement.

“Lease Agreement” means this Lease Agreement, as the same may be amended or supplemented pursuant to the provisions hereof.

“Lease Effective Date” means the date on which the 1999 Certificates are no longer outstanding and all of the conditions for the increase in Commitment (as defined in the Line of Credit) have been satisfied as required by Section 4.05 of the Revolving Credit Agreement.

“LIBOR Rate” has the meaning ascribed to such term in the Revolving Credit Agreement.

“Line of Credit” means the revolving line of credit provided by the Bank to the Authority pursuant to the Revolving Credit Agreement.

“Maximum Lease Term” has the meaning set forth in Section 2.02 of this Lease Agreement.

“Net Proceeds” means any insurance proceeds or condemnation award paid with respect to any of the Property, remaining after payment therefrom of all reasonable expenses incurred in the collection thereof.

“Note” means the 2018-19 Taxable Tax and Revenue Anticipation Note or any other tax and any subsequent tax and revenue anticipation note issued by the Town to secure the Line of Credit.

“Permitted Encumbrances” means, with respect to the Property, as of any particular time, (a) liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the Town may, pursuant to provisions of Section 8.02 hereof, permit to remain unpaid, (b) this Lease Agreement, (c) the Site Lease, (d) the Assignment Agreement, (e) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law as normally exist with respect to properties similar to the Property for the purposes for which it was acquired or is held by the Town, (f) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record as of the Lease Effective Date which the Town certifies in writing to the Authority and the Bank do not and will not affect the intended use of the Property and will not interfere with the Town’s beneficial use and enjoyment of the Property or result in any abatement of Rental Payments hereunder or impair the security granted to the Bank by the Revolving Credit Agreement and to which the Authority and the Town consent in writing, and (g) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants,

conditions or restrictions established following the Lease Effective Date which the Town certifies in writing to the Authority and the Bank do not and will not affect the intended use of the Property and will not interfere with the Town's beneficial use and enjoyment of the Property or result in any abatement of Rental Payments hereunder.

"Property" means the real property described in Exhibit A hereto, and all improvements thereon.

"Rental Payments" means, collectively, the Base Rental Payments and the Additional Rental Payments.

"Rental Period" means the period from the Lease Effective Date through November 1, 2019 and, thereafter, the twelve-month period commencing on November 1 of each year during the term of this Lease Agreement.

"Revolving Credit Agreement" means the Revolving Credit Agreement by and among the Town, the Authority and the Bank dated as of October __, 2018 which provides the terms and conditions of the Line of Credit, as supplemented and amended.

"Site Lease" means the Site and Facilities Lease, dated as of the date hereof, by and between the Town and the Authority, as originally executed and as it may from time to time be amended in accordance with the provisions thereof and hereof.

"Town" means the Town of Apple Valley, a body corporate and politic of the State of California.

"Termination Date" means October __, 2021, unless extended or sooner terminated as provided in Section 2.02 hereof.

"1999 Certificates" means the Town's original issue amount \$5,895,000 Variable Rate Demand Certificates of Participation (1999 Public Facilities Financing Project).

ARTICLE 2

LEASE OF PROPERTY; TERM

Section 2.1 Lease of Property.

(a) **Commencing on the Lease Effective Date, the Authority hereby leases to the Town and the Town hereby leases from the Authority the Property, on the terms and conditions hereinafter set forth, and subject to all Permitted Encumbrances.**

(b) **The leasing of the Property by the Town to the Authority pursuant to the Site Lease shall not effect or result in a merger of the Town's leasehold estate in the Property pursuant to this Lease Agreement and its fee estate therein as lessor under the Site Lease, and the Authority shall continue to have a leasehold estate in the Property pursuant to the Site Lease throughout the term thereof and hereof. This Lease Agreement shall constitute a sublease with respect to the Property. The leasehold interest in the Property granted by the Town to the Authority pursuant to the Site Lease is and shall be independent of this Lease**

Agreement; this Lease Agreement shall not be an assignment or surrender of the leasehold interest in the Property granted to the Authority under the Site Lease.

Section 2.2 Term. The term of this Lease Agreement shall commence on the Lease Effective Date and shall end on the Termination Date, unless such term is extended or sooner terminated as hereinafter provided. If on the Termination Date the Line of Credit shall not be fully paid, or the Revolving Credit Agreement shall not be terminated or discharged by its terms, or if the Rental Payments shall remain due and payable or shall have been abated at any time and for any reason, then the term of this Lease Agreement shall be extended until the date upon which the Line of Credit shall be fully paid, and the Revolving Credit Agreement shall be terminated and discharged by its terms and all Rental Payments shall have been paid in full, except that the term of this Lease Agreement shall in no event be extended more than fifteen (15) years beyond such Termination Date, such extended date being the “Maximum Lease Term.”

ARTICLE 3

RENTAL PAYMENTS

Section 3.1 Base Rental Payments.

(a) General. Subject to the provisions of Section 3.06 and Article VII hereof, Base Rental Payments shall be paid by the Town to the Authority for and in consideration of the right to use and occupy the Property and in consideration of the continued right to the quiet use and enjoyment thereof during each Rental Period for which such Base Rental Payments are to be paid. A portion of the Base Rental Payments shall constitute principal components and a portion of the Base Rental Payments shall constitute interest components. It is expressly understood that the obligation of the Town to pay Base Rental Payments hereunder includes the obligation of the Town to pay the Excess Amount, subject, however, to the specific limitations on such payment set forth in this Section.

The obligation of the Town under this Lease Agreement, including without limitation the obligation to make Rental Payments, are obligations payable from the Town’s general fund and any source of legally available funds of the Town. The obligation of the Town to make the Base Rental Payments does not constitute a debt of the Town or of the State of California or of any political subdivision thereof within the meaning of any constitutional or statutory debt limit or restriction, and does not constitute an obligation for which the Town or the State of California is obligated to levy or pledge any form of taxation or for which the Town or the State of California has levied or pledged any form of taxation.

All Base Rental Payments received shall be applied first to the interest components of the Base Rental Payments due hereunder, then to the principal components of the Base Rental Payments due hereunder.

(b) Excess Amount. Notwithstanding anything contained herein to the contrary, if, in any Rental Period, the sum of the Rental Payments exceeds the Fair Rental Value in such Rental Period, such excess Rental Payments shall remain an obligation of the Town to be paid by the Town in each next succeeding future Rental Period(s), in which payment of

such Rental Payments is not abated pursuant to this Lease and the aggregate amount of the Rental Payments due in such Rental Period plus such Excess Amount (or portion thereof) does not exceed the Fair Rental Value in such Rental Period, until all Excess Amounts are paid in full during such next succeeding future Rental Period(s). Notwithstanding the foregoing, any Rental Payments which are unpaid upon expiration of the Maximum Lease Term, shall be discharged and shall not be paid by the Town to the Authority in any future year. The obligation to pay any portion of the Excess Amount shall not arise until the Rental Period during which such Excess Amount is required to be applied and in no event shall any Excess Amount be used to pay Rental Payments which would have accrued during any period of abatement with respect to such Rental Payments.

(c) **Principal Components and Interest Components.** Subject to the provisions of Section 3.06 hereof and the provisions of Article VII hereof, the principal components of the Base Rental Payments shall be paid by the Town in the amounts specified by the Revolving Credit Agreement on each Base Rental Deposit Dates; provided, however, any amounts paid by the Town from the Note on an Interest Payment Date shall be an offset against the immediately following Base Rental Payment. The interest components of the Base Rental Payments shall be paid by the Town as and constitute interest paid on the principal components of the Base Rental Payments. The interest components of the Base Rental Payments shall accrue at the same rate as the Note, as provided in the Revolving Credit Agreement, which shall be a rate per annum equal to the sum of (i) the LIBOR Rate plus (ii) the Applicable Spread for the Note. In no event shall Base Rental Payments due in any Rental Period exceed the Fair Rental Value of the Property. In the event that Base Rental Payments will exceed Fair Rental Value in any Rental Period, Base Rental Payments due on each Base Rental Deposit Date shall equal one-twelfth (1/12th) of the Fair Rental Value of the Property and the remainder shall be paid as Excess Amounts as provided in Section 3.01(b) hereof.

(d) **Extension of Lease Term.** If the term of this Lease Agreement shall have been extended pursuant to Section 2.02 hereof, the obligation of the Town to pay Rental Payments shall continue to the date of termination of this Lease Agreement (as so extended pursuant to Section 2.02 hereof). Upon such extension, the principal and interest components of the Base Rental Payments shall, subject to the provisions of Section 3.03 hereof, be established so that the principal components will in the aggregate be sufficient to pay all extended and unpaid principal components and the interest components will in the aggregate be sufficient to pay all extended and unpaid interest components as well as all remaining obligations.

If the Town fails to perform any of its obligations under this Lease Agreement or to make Additional Rental Payments, the Authority may, but shall have no obligation whatsoever to, take such action as may be necessary to cure such failure, including the advancement of money, and the Town shall be obligated to repay all such advances as Additional Rental Payments hereunder, with interest from the date of such advancement at the Default Rate.

Section 3.2 Additional Rental Payments. The Town shall also pay, as Additional Rental Payments, such amounts as shall be required for the payment of the following:

(a) **All reasonable administrative costs of the Town and Authority relating to the Property including, but without limiting the generality of the foregoing, salaries, wages, fees and expenses, fees of auditors, accountants, attorneys or engineers, and all other necessary and reasonable administrative costs of the Town or Authority or charges required to be paid by it in order to maintain its existence or to comply with the terms of the Revolving Credit Agreement or this Lease Agreement or to defend the Town or Authority and its members, officers, agents and employees;**

(b) **insurance premiums for all insurance required pursuant to Article V hereof; and**

(c) **all other payments required to be paid by the Town under the provisions of the Revolving Credit Agreement which do not constitute a part of the Base Rental Payments due hereunder including fees and charges under those agreements.**

Amounts constituting Additional Rental Payments payable hereunder shall be paid by the Town directly to the person or persons to whom such amounts shall be payable. The Town shall pay all such amounts when due or at such later time as such amounts may be paid without penalty. To the extent that the Additional Rental Payments due in any Rental Period would cause the Rental Payments to exceed the Fair Rental Value of the Property, such excess shall constitute an Excess Amount which shall be paid in accordance with the provisions of Section 3.01(b) hereof.

Section 3.3 Fair Rental Value. The parties hereto have agreed and determined that the Fair Rental Value of the Property as of the Lease Effective Date is not less than \$ _____. In making such determination of Fair Rental Value, consideration has been given, among other things, to the uses and purposes which may be served by the Property and the benefits therefrom which will accrue to the Town and the general public. Payments of the Rental Payments for the Property during each Rental Period shall constitute the total rental for said Rental Period. The Rental Payments payable for each Rental Period (exclusive of the undischarged portion of the Excess Amount) shall not exceed the Fair Rental Value.

Section 3.4 Payment Provisions. Each installment of Base Rental Payments payable hereunder shall be paid in lawful money of the United States of America to the Authority at the Address provided in Section 10.02 hereof, or such other place or entity as the Authority shall designate. Each Base Rental Payment shall be deposited with the Authority no later than the Base Rental Deposit Date following each Interest Payment Date. Any Base Rental Payment which shall not be paid by the Town when due and payable under the terms of this Lease Agreement shall bear interest from the date when the same is due hereunder until the same shall be paid at the Default Rate. Notwithstanding any dispute between the Authority and the Town, the Town shall make all Rental Payments when due without deduction or offset of any kind and shall not withhold any Rental Payments pending the final resolution of such dispute. In the event of a final non-appealable determination by a court of competent jurisdiction that the Town was not liable for said Rental Payments or any portion thereof,

said payments or excess of payments, as the case may be, shall be credited against subsequent Rental Payments due hereunder or refunded at the time of such determination. Upon the occurrence of an event of default hereunder the interest components shall be calculated at the Default Rate and the Base Rental Payments shall be adjusted in accordance therewith.

Section 3.5 Appropriations Covenant. The Town covenants to take such action as may be necessary to include all Rental Payments estimated by the Town, based on an assumed rate on the basis of anticipated market conditions reasonably determined by the Town, to become due hereunder in the applicable year during the term of this Lease Agreement, as a separate line item in its annual budgets and to make necessary annual appropriations for all such Rental Payments, plus the undischarged portion, if any, of the Excess Amount. Following an event of default under the Revolving Credit Agreement, the Town shall assume annual Rental Payments are equal to the Fair Rental Value for purposes of the foregoing sentence. The Town will deliver to the Authority and the Bank copies of the resolution approving the Town budget and the portion of each proposed Town budget relating to the payment of Rental Payments within ten days after the filing or adoption thereof. The Town will deliver to the Authority and the Bank a copy of the final budget within one month of publication thereof. The covenants on the part of the Town herein contained shall be deemed to be and shall be construed to be duties imposed by law and it shall be the duty of each and every public official of the Town to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the Town to carry out and perform the covenants and agreements in this Lease Agreement agreed to be carried out and performed by the Town.

Section 3.6 Abatement. Except as otherwise specifically provided in this Section, on and after the Lease Effective Date, during any period in which, by reason of material damage to, or destruction or condemnation of, the Property, or any defect in title to the Property, there is substantial interference with the Town's right to use and occupy any portion of the Property, Rental Payments shall be abated proportionately, and the Town waives the benefits of California Civil Code Sections 1932(1), 1932(2) and 1933(4) and any and all other rights to terminate this Lease Agreement by virtue of any such interference, and this Lease Agreement shall continue in full force and effect. The amount of such abatement shall be agreed upon by the Town and the Authority; provided, however, that the Rental Payments due for any Rental Period shall not exceed the annual fair rental value of that portion of the Property available for use and occupancy by the Town during such Rental Period. Notwithstanding the foregoing, Rental Payments shall not abate to the extent of the fair rental value of sites included in the Property which continue to be available for use and occupancy by the Town. The Town and the Authority shall calculate such abatement and shall provide the Bank with a certificate setting forth such calculation and the basis therefor. Such abatement shall continue for the period commencing with the date of interference resulting from such damage, destruction, condemnation or title defect and, with respect to damage to or destruction of the Property, ending with the substantial completion of the work of repair or replacement of the Property, or the portion thereof so damaged or destroyed; and the term of this Lease Agreement shall be extended as provided in Section 2.02 hereof

(such extended term, an “Extended Lease Term”), except that the term shall in no event be extended beyond the Maximum Lease Term.

Notwithstanding the foregoing, to the extent that moneys are available for the payment of Rental Payments from proceeds of insurance pursuant to Article V hereof, Rental Payments shall not be abated as provided above but, rather, shall be payable by the Town as a special obligation payable solely from said funds and accounts.

ARTICLE 4

MAINTENANCE OF PROPERTY; ALTERATIONS AND ADDITIONS

Section 4.1 Maintenance and Utilities. Throughout the term of this Lease Agreement, as part of the consideration for rental of the Property, all improvement, repair and maintenance of the Property shall be the responsibility of the Town, and the Town shall pay for or otherwise arrange for the payment of all utility services supplied to the Property, which may include, without limitation, janitor service, security, power, gas, telephone, light, heating, ventilation, air conditioning, water and all other utility services, and shall pay for or otherwise arrange for payment of the cost of the repair and replacement of the Property resulting from ordinary wear and tear or want of care on the part of the Town or any assignee or sublessee thereof. In exchange for the Rental Payments, the Authority agrees only to lease the Property as is, where is.

Section 4.2 Additions to Property. Subject to Section 8.02 hereof, on and after the Lease Effective Date, the Town and any sublessee shall, at its own expense, have the right to make additions, modifications and improvements to the Property, provided that such additions, modifications and improvements shall not in any way damage the Property or cause it to be used for purposes other than those authorized under the provisions of state and federal law; and the Property, upon completion of any additions, modifications and improvements made pursuant to this Section, shall be of a value which is at least equal to the value of the Property immediately prior to the making of such additions, modifications and improvements. To the extent that the removal of such additions, modifications or improvements would not cause material damage to the Property, such additions, modifications and improvements shall remain the sole property of the Town or such sublessee, and the Authority shall not have any interest therein.

Section 4.3 Installation of Town’s Equipment. The Town and any sublessee 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 the Property. All such items shall remain the sole property of the Town or such sublessee, and the Authority shall not have any interest therein. The Town or such sublessee may remove or modify such equipment or other personal property at any time, provided that such party shall repair and restore any and all damage to the Property resulting from the installation, modification or removal of any such items. Nothing in this Lease Agreement shall prevent the Town or any sublessee from purchasing items to be installed pursuant to this Section under a conditional sale or lease purchase contract, or subject to a vendor’s lien or security agreement as security

for the unpaid portion of the purchase price thereof, provided that no such lien or security interest shall attach to any part of the Property.

ARTICLE 5

INSURANCE

Section 5.1 Public Liability and Property Damage.

(a) **Coverage.** The Town shall maintain or cause to be maintained, throughout the Term hereof, a standard comprehensive general public liability and property damage insurance policy or policies in protection of the Town, the Authority and the Bank and their respective officers, agents and employees as additional insureds under the policy or policies. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the use or operation of the Property.

(b) **Limits.** Said policy or policies shall provide coverage in the minimum liability limits of \$1,000,000 for personal injury or death of each person in each accident or event and \$3,000,000 for personal injury or deaths of two or more persons in each accident or event, and in a minimum amount of \$500,000 for damage to property resulting from each accident or event (subject to a deductible clause of not to exceed \$250,000 or such higher amount as is consented to by the Bank). Such public liability and property damage insurance may, however, be in the form of a single limit policy covering all such risks in an amount equal to the aggregate minimum liability limits set forth herein.

(c) **Joint or Self-Insurance.** Such liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried by the Town. Such liability insurance may be maintained by the Town in the form of self-insurance or a risk pooling arrangement which complies with Section 5.06(e) hereof.

(d) **Payment of Proceeds.** The proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the insurance proceeds shall have been paid.

Section 5.2 Worker's Compensation. The Town shall also maintain worker's compensation insurance issued by a responsible carrier authorized under the laws of the State to insure its employees against liability for compensation under the Worker's Compensation Insurance and Safety Act now in force in the State; or any act hereafter enacted as an amendment or supplement thereto, or in lieu thereof such insurance, or a part thereof, may be maintained by the Town in the form of self-insurance which complies with Section 5.06(e) hereof.

Section 5.3 Hazard Insurance.

(a) **Coverage.** The Town shall maintain or cause to be maintained, throughout the Term hereof, a policy or policies of insurance against loss or damage to the Property

resulting from fire, lightning, vandalism, malicious mischief all other risks and perils ordinarily defined as “extended coverage” or covered by an extended coverage endorsement, excluding earthquake and, except as provided in subsection(d), flood. Said policy or policies shall be maintained in an amount not less than the greater of the full replacement value of the Property and the aggregate remaining unpaid principal components of the Base Rental Payments, subject to a “deductible clause” not to exceed two hundred-fifty thousand dollars (\$500,000) for any one loss or such higher amount as is consented to by the Bank, and shall name Town and the Bank as loss payee and the Authority as an additional insured under the policy or policies. The term “full replacement value” as used in this Section 5.03 shall mean the actual replacement cost of the improvements located on the Property (including the cost of restoring the surface of the Property, but excluding the cost of restoring trees, plants and shrubs).

(b) **Joint or Self-Insurance.** Such insurance may be maintained as part of or in conjunction with any other insurance carried by the Town. The Town shall not maintain such hazard insurance in the form of self-insurance.

(c) **Payment of Net Proceeds.** The Net Proceeds of such insurance shall be paid to the Town for the purpose of rebuilding all or a portion of the improvements located on the Property; provided, however, that if the Town determines in its sole discretion not to rebuild all or a portion of the Property, the Net Proceeds of such insurance shall be credited towards the payment of the Base Rental Payments in the order in which such Base Rental Payments come due and payable.

(d) **Flood Insurance.** If at any time and for so long as any portion of the Property is located in a 100-year flood area as showing on a Flood Insurance Rate Map published by the Federal Emergency Management Agency, the policy or policies of casualty insurance provided under this Section 7.01 shall include insurance against loss or damage to the Property due to flooding. If the Town obtains an exception or waiver to the designation of the Property as being within a 100-year flood area from the Federal Emergency Management Agency, the Town shall not be required to provide flood insurance as set forth in this subsection (d).

Section 5.4 Rental Interruption Insurance.

(a) **Coverage and Amount.** The Town shall maintain or cause to be maintained for the benefit of the Authority rental interruption insurance in an amount not less than an amount equal to twice the maximum annual Base Rental Payment during the Term hereof, to insure against loss of rental income from the Property caused by perils covered by the insurance required to be maintained as provided in Section 5.03 hereof. Such insurance shall be obtained not later than the Lease Effective Date (or such other date agreed to in writing by the Authority and the Bank).

(b) **Joint Insurance.** Such insurance may be maintained as part of or in conjunction with any other rental interruption insurance carried by the Town. The Town may not maintain rental interruption insurance in the form of self-insurance.

(c) **Payment of Proceeds.** The proceeds of such rental interruption insurance shall be paid to the Town as loss payee and credited towards the payment of the Base Rental Payments in the order in which such Base Rental Payments come due and payable.

Section 5.5 Title Insurance. The Town shall deliver on the Lease Effective Date a policy of title insurance for the Property approved by the Bank and issued by a title insurer approved by the Bank. The title policy or policies in effect at any time with respect to the Property shall be in an amount at least equal to the aggregate Principal Component of unpaid Base Rental Payments, issued by a title insurer of recognized standing duly authorized to issue the same. The title policy or policies shall insure (a) the Town's fee simple estate in the Property, (b) the Authority's and the Bank's leasehold estate in the Property under the Site Lease, and (c) and the Town's sub-leasehold interest hereunder in the Property, all subject only to Permitted Encumbrances. The proceeds of such insurance shall be paid to the Town as loss payee, provided the Town is not in default under the Revolving Credit Agreement. If the Town is in default under the Revolving Credit Agreement, the proceeds of such insurance may, at the Bank's option, be paid to the Bank as loss payee to be applied in accordance with Section 7.02 hereof. The Town shall not maintain title insurance in the form of self-insurance.

Section 5.6 General Insurance Provisions.

(a) **Form of Policies.** All policies of insurance required to be procured and maintained pursuant to this Lease, other than the worker's compensation insurance and the title insurance specified in Sections 5.02 and 5.05 hereof, respectively, and any statements of self-insurance shall provide that the Town shall receive 30 days' notice of each expiration, or any intended cancellation thereof or reduction of the coverage provided thereby. Insurance required to be procured and maintained pursuant to Section 5.03 hereof (regarding hazard insurance); Section 5.04 hereof (regarding rental interruption insurance) and Section 5.05 hereof (regarding title insurance) shall provide that all proceeds thereunder shall be payable to the Town as the loss payee. Except as otherwise provided in this Article V, all policies shall name the Town as loss payee, and the Authority and the Bank as an additional insured. All insurance policies (or riders) required by this Article shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State of California. Each insurance policy or rider shall name the Town and the Bank as loss payee and shall include a lender's loss payable endorsement for the benefit of the Bank. To the extent commercially available, all such policies shall contain a standard lessee clause in favor of the Authority and the general liability insurance policies shall be endorsed to show the Authority as an additional insured. Prior to the Lease Effective Date, the Town will deposit with the Bank policies (and riders and endorsements, if applicable) evidencing any such insurance procured by it, or a certificate or certificates of the respective insurers stating that all such insurance is in full force and effect. Before the expiration of any such policy (or rider), the Town will furnish to the Bank evidence that the policy has been renewed or replaced by another policy conforming to the provisions hereof unless such insurance is no longer obtainable, in which event the Town shall notify the Bank of such fact.

(b) **Payment of Premiums.** The Town shall pay or cause to be paid when due the premiums for all insurance policies required by this Lease.

(c) **[Reserved].**

(d) **Evidence of Insurance.** The Town shall deliver certificates to the Bank within the 30 days prior to March 15 of each year during the Term of this Lease to the effect that the insurance policies required by this Lease are in full force and effect.

(e) **Self-Insurance.** Any self-insurance or risk pooling insurance arrangement (“Pooling”) maintained by the Town in respect of the hazards and risks described in Section 5.01 and 5.02 hereof shall afford reasonable protection to the Authority and the Town. Before the Town elects to provide self-insurance or Pooling hereunder, and within the 30 days prior to March 15 of each year thereafter, there shall be filed with the Bank a certificate of an actuary, independent insurance consultant selected by the Town, or other qualified person selected by the Town, who may be the Town’s Risk Manager, stating that, in the opinion of the signer, the method or plan of protection is sound and affords adequate protection to the Authority and the Town against loss and damage from the hazards and risks covered thereby, and there shall also be filed with the Bank a certificate of the Town stating that such substitute method or plan has been implemented. Self-insurance or Pooling for property and casualty and liability risks, unless otherwise consented to by the Bank, shall comply with the following conditions:

(viii) The self insurance or Pooling program must be approved by an independent insurance consultant, who may be the Town’s Risk Manager;

(ix) The self insurance or Pooling program must be maintained on an actuarially sound basis and the Bank will annually receive a certified actuarial statement of the Town’s Risk Manager attesting to the sufficiency of the program’s assets;

(x) The self insurance or Pooling fund must be held in a separate trust fund; and

(xi) In the event the self insurance or Pooling program is discontinued, the actuarial soundness of the claim reserve fund must be maintained.

The Town shall provide adequate reserves to cover the amount of any deductible provisions of the insurance required to be maintained pursuant to Sections 5.01, 5.02, 5.03 and 5.04 hereof.

Section 5.7 Cooperation. The Authority shall cooperate fully with the Town at the expense of the Town 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 or any portion thereof.

ARTICLE 6

DEFAULTS AND REMEDIES

Section 6.1 Defaults and Remedies.

(a) (i) If the Town shall fail (A) to pay any Rental Payment payable hereunder when the same becomes due and payable, time being expressly declared to be of the essence in this Lease Agreement, or (B) to keep, observe or perform any other term, covenant or condition contained herein to be kept or performed by the Town, or (ii) upon the happening of any of the events specified in subsection (b) of this Section, the Town shall be deemed to be in default hereunder and it shall be lawful for the Authority to exercise any and all remedies available pursuant to law or granted pursuant to this Lease Agreement. The Town shall in no event be in default in the observance or performance of any covenant, condition or agreement in this Lease Agreement on its part to be observed or performed, other than as referred to in clause (i)(A) or (ii) of the preceding sentence, unless the Town shall have failed, for a period of 30 days or such additional time as is reasonably required, but in no event greater than 60 days without the prior written consent of the Authority and the Bank to correct any such default after notice by the Authority to the Town properly specifying wherein the Town has failed to perform any such covenant, condition or agreement. Upon any such default, the Authority, in addition to all other rights and remedies it may have at law, shall, at direction of the Bank or with the prior written consent of the Bank, have the option to do any of the following:

a. To terminate this Lease Agreement in the manner hereinafter provided on account of default by the Town, notwithstanding any re-entry or re-letting of the Property as hereinafter provided for in subparagraph (2) hereof, and to re-enter the Property and remove all persons in possession thereof and all personal property whatsoever situated upon the Property and place such personal property in storage in any warehouse or other suitable place, for the account of and at the expense of the Town. In the event of such termination, the Town agrees to surrender immediately possession of the Property, without let or hindrance, and to pay the Authority all damages recoverable at law that the Authority may incur by reason of default by the Town, including, without limitation, any costs, loss or damage whatsoever arising out of, in connection with, or incident to any such re-entry upon the Property and removal and storage of such property by the Authority or its duly authorized agents in accordance with the provisions herein contained. Neither notice to pay Rental Payments or to deliver up possession of the Property given pursuant to law nor any entry or re-entry by the Authority nor any proceeding in unlawful detainer, or otherwise, brought by the Authority for the purpose of effecting such re-entry or obtaining possession of the Property nor the appointment of a receiver upon initiative of the Authority to protect the Authority's interest under this Lease Agreement shall of itself operate to terminate this Lease Agreement, and no termination of this Lease Agreement on account of default by the Town shall be or become effective by operation of law or acts of the parties hereto, or otherwise, unless and until the Authority shall have given written notice to the Town of the election on the part of the Authority to terminate this Lease Agreement. The Town covenants and agrees that no surrender of the Property or of the remainder of the term hereof or any termination of this Lease Agreement shall be valid in any manner or for any purpose whatsoever unless stated by the Authority by such written notice.

b. Without terminating this Lease Agreement, (x) to collect each installment of Rental Payments as the same become due and enforce any other terms or provisions hereof to be kept or performed by the Town, regardless of whether or not the Town has abandoned the Property, or (y) to exercise any and all rights of entry and re-entry upon the Property. In the event the Authority does not elect to terminate this Lease Agreement in the manner provided for in subparagraph (1) hereof, the Town shall remain liable and agrees to keep or perform all covenants and conditions herein contained to be kept or performed by the Town and, if the Property is not re-let, to pay the full amount of the Rental Payments to the end of the term of this Lease Agreement or, in the event that the Property is re-let, to pay any deficiency in Rental Payments that results therefrom; and further agrees to pay said Rental Payments and/or Rental Payment deficiency punctually at the same time and in the same manner as hereinabove provided for the payment of Rental Payments hereunder, notwithstanding the fact that the Authority may have received in previous years or may receive thereafter in subsequent years Rental Payments in excess of the Rental Payments herein specified, and notwithstanding any entry or re-entry by the Authority or suit in unlawful detainer, or otherwise, brought by the Authority for the purpose of effecting such re-entry or obtaining possession of the Property. Should the Authority elect to re-enter as herein provided, the Town hereby irrevocably appoints the Authority as the agent and attorney-in-fact of the Town to re-let the Property, or any part thereof, from time to time, either in the Authority's name or otherwise, upon such terms and conditions and for such use and period as the Authority may deem advisable and to remove all persons in possession thereof and all personal property whatsoever situated upon the Property and to place such personal property in storage in any warehouse or other suitable place, for the account of and at the expense of the Town, and the Town hereby indemnifies and agrees to save harmless the Authority from any costs, loss or damage whatsoever arising out of, in connection with, or incident to any such re-entry upon and re-letting of the Property and removal and storage of such property by the Authority or its duly authorized agents in accordance with the provisions herein contained. The Town agrees that the terms of this Lease Agreement constitute full and sufficient notice of the right of the Authority 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 in effecting such re-letting shall constitute a surrender or termination of this Lease Agreement irrespective of the use or the term for which such re-letting is made or the terms and conditions of such re-letting, or otherwise, but that, on the contrary, in the event of such default by the Town the right to terminate this Lease Agreement shall vest in the Authority to be effected in the sole and exclusive manner provided for in subparagraph (1) hereof. The Town further agrees to pay the Authority the cost of any alterations or additions to the Property necessary to place the Property in condition for re-letting immediately upon notice to the Town of the completion and installation of such additions or alterations.

The Town hereby waives any and all claims for damages caused or which may be caused by the Authority in re-entering and taking possession of the Property as herein provided and all claims for damages that may result from the destruction of or injury to the Property and all claims for damages to or loss of any property belonging to the Town, or any other person, that may be in or upon the Property.

(b) If (i) the Town's interest in this Lease Agreement or any part thereof be assigned or transferred, either voluntarily or by operation of law or otherwise, without the written consent of the Authority, as hereinafter provided for, (ii) the Town or any assignee shall file any petition or institute any proceeding under any act or acts, state or federal,

dealing with or relating to the subject or subjects of bankruptcy or insolvency, or under any amendment of such act or acts, either as a bankrupt or as an insolvent, or as a debtor, or in any similar capacity, wherein or whereby the Town asks or seeks or prays to be adjudicated a bankrupt, or is to be discharged from any or all of the Town's debts or obligations, or offers to the Town's creditors to effect a composition or extension of time to pay the Town's debts or asks, seeks or prays for reorganization or to effect a plan of reorganization, or for a readjustment of the Town's debts, or for any other similar relief, or if any such petition or any such proceedings of the same or similar kind or character be filed or be instituted or taken against the Town, or if a receiver of the business or of the property or assets of the Town shall be appointed by any court, except a receiver appointed at the instance or request of the Authority, or if the Town shall make a general assignment for the benefit of the Town's creditors, (iii) the Town shall abandon or vacate the Property, (iv) the Town shall fail to maintain insurance as required herein, (v) any statement, representation, or warranty made by the Town in or pursuant to this Lease Agreement or the Site Lease or the execution, delivery, or performance thereof shall prove to have been false, materially incorrect or misleading, or breached in any material respect on the date when made, or (vi) any event of default occurs under the Revolving Credit Agreement, then the Town shall be deemed to be in default hereunder.

(c) In addition to the other remedies set forth in this Section, upon the occurrence of an event of default, the Authority and its assignee shall be entitled to proceed to protect and enforce the rights vested in the Authority and its assignee by this Lease Agreement or by law. The provisions of this Lease Agreement and the duties of the Town and of its Town Council, officers or employees shall be enforceable by the Authority or its assignee by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction. Without limiting the generality of the foregoing, the Authority and its assignee shall have the right to bring the following actions:

(viii) *Accounting*. By action or suit in equity to require the Town and its Town Council, officers and employees and its assigns to account as the trustee of an express trust.

(ix) *Injunction*. By action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the Authority or its assignee.

(x) *Mandamus*. By mandamus or other suit, action or proceeding at law or in equity to enforce the Authority's or its assignee's rights against the Town (and its Town Council, officers and employees) and to compel the Town to perform and carry out its duties and obligations under the law and its covenants and agreements with the Town as provided herein.

Each and all of the remedies given to the Authority hereunder or by any law now or hereafter enacted are cumulative and the single or partial exercise of any right, power or privilege hereunder shall not impair the right of the Authority to the further exercise thereof or the exercise of any or all other rights, powers or privileges. The term "re-let" or "re-letting" as used in this Section shall include, but not be limited to, re-letting by means of the operation by the Authority of the Property. If any statute or rule of law validly shall limit the remedies given to the Authority hereunder, the Authority

nevertheless shall be entitled to whatever remedies are allowable under any statute or rule of law.

In the event the Authority shall prevail in any action brought to enforce any of the terms and provisions of this Lease Agreement, the Town agrees to pay a reasonable amount as and for attorney's fees incurred by the Authority in attempting to enforce any of the remedies available to the Authority hereunder.

Notwithstanding anything to the contrary contained in this Lease Agreement, the Authority shall have no right upon a default hereunder by the Town to accelerate Rental Payments.

(d) Notwithstanding anything herein to the contrary, the termination of this Lease Agreement by the Authority and its assignees on account of a default by the Town under this Section shall not effect or result in a termination of the lease of the Property by the Town to the Authority pursuant to the Site Lease.

Section 6.2 Waiver. Failure of the Authority to take advantage of any default on the part of the Town shall not be, or be construed as, a waiver thereof, nor shall any custom or practice which may grow up between the parties in the course of administering this instrument be construed to waive or to lessen the right of the Authority to insist upon performance by the Town of any term, covenant or condition hereof, or to exercise any rights given the Authority on account of such default. A waiver of a particular default shall not be deemed to be a waiver of any other default or of the same default subsequently occurring. The acceptance of Rental Payments hereunder shall not be, or be construed to be, a waiver of any term, covenant or condition of this Lease Agreement.

ARTICLE 7

EMINENT DOMAIN; PREPAYMENT

Section 7.1 Eminent Domain. If all of the Property (or portions thereof such that the remainder is not usable for public purposes by the Town) shall be taken under the power of eminent domain, the term hereof shall cease as of the day that possession shall be so taken. If less than all of the Property shall be taken under the power of eminent domain and the remainder is usable for public purposes by the Town at the time of such taking, then this Lease Agreement shall continue in full force and effect as to such remainder, and the parties waive the benefits of any law to the contrary, and in such event there shall be a partial abatement of the Rental Payments in accordance with the provisions of Section 3.06 hereof. Any Net Proceeds received in respect of eminent domain proceedings for the taking of the Property, or any portion thereof, shall be applied to the prepayment of Base Rental Payments in the same manner as described for damage or destruction of the Property in Section 7.02.

Section 7.2 Damage or Destruction.

(a) If the Property or any portion thereof shall be damaged or destroyed, subject to the further requirements of this Section, the Town shall, as expeditiously as possible, continuously and diligently prosecute or cause to be prosecuted the repair or replacement thereof, unless the Town elects

not to repair or replace the Property or the affected portion thereof in accordance with the provisions hereof.

(b) The Net Proceeds of any casualty insurance, including the proceeds of any self-insurance, received on account of any damage or destruction of the Property or a portion thereof shall as soon as possible be deposited by the Town in a special account and made available for and, to the extent necessary, shall be applied to the cost of repair or replacement of the Property or the affected portion thereof, as provided herein. The Town shall provide the Authority and Bank with written evidence of any such deposit.

(c) Notwithstanding the provisions of subsection (b) of this Section, the Town shall, within 60 days of the occurrence of the event of damage or destruction, notify the Authority and Bank in writing as to whether the Town intends to replace or repair the Property or the portions of the Property which were damaged or destroyed. If the Town does intend to replace or repair the Property or portions thereof, the Town shall deposit in said special account the full amount of any insurance deductible. The Town shall provide the Authority and Bank with written evidence of any such deposit.

(d) If such damage, destruction or loss was such that there resulted a substantial interference with the Town's right to the use or occupancy of the Property and an abatement in whole or in part of Rental Payments would result from such damage or destruction pursuant to Section 3.06 hereof, then the Town shall be required either to (i) apply sufficient funds from the insurance proceeds and other legally available funds to the replacement or repair of the Property or the portions thereof which have been damaged to the condition which existed prior to such damage or destruction, or (ii) apply sufficient funds from the insurance proceeds and other legally available funds to the prepayment, as set forth in Section 7.02 hereof, in full of all the Base Rental Payments or such portion of the Base Rental Payments which would be abated as a result of the damage or destruction.

(e) Notwithstanding anything herein to the contrary, if the Town is in default hereunder or under the Revolving Credit Agreement, the proceeds of such insurance shall be applied solely at the Bank's direction, and the Bank may require the Town to either to (i) apply the insurance proceeds to the replacement or repair of the Property or the portions thereof which have been damaged to the condition which existed prior to such damage or destruction, or (ii) apply the insurance proceeds to the prepayment, as set forth in Section 7.02 hereof, in full of all the Base Rental Payments or such portion of the Base Rental Payments which would be abated as a result of the damage or destruction.

Section 7.3 Prepayment.

(a) (i) **Provided the Town is not in default under the Revolving Credit Agreement, the Town may not prepay any Rental Payments under this Lease Agreement.**

(ii) Upon an event of default under the Revolving Credit Agreement, the Town may prepay all amounts due under the Revolving Credit Agreement, from any source of legally available funds.

(b) **If less than all of the Base Rental Payments are prepaid pursuant to this Section then the Base Rental Payments shall be prepaid on a pro-rata basis and, as of the date of such prepayment pursuant to subsection (a) of this Section, or the date of a deposit**

pursuant to subsection (b) of this Section, the principal and interest components of the Base Rental Payments shall be recalculated in order to take such prepayment into account. The Town agrees that if, following a partial prepayment of Base Rental Payments, the Property is damaged, destroyed or taken by eminent domain, or a defect in title to the Property is discovered, the Town shall not be entitled to, and by such prepayment waives the right of, abatement of such prepaid Base Rental Payments and the Town shall not be entitled to any reimbursement of such Base Rental Payments.

(c) Before making any prepayment pursuant to this Article, the Town shall give written notice to the Authority and the Bank specifying the date on which the prepayment will be made, which date shall be not less than 15 from the date such notice is given to the Authority.

ARTICLE 8

COVENANTS

Section 8.1 Right of Entry. The Authority and its assignees shall have the right to enter upon and to examine and inspect the Property during reasonable business hours (and in emergencies at all times) for any purpose connected with the Authority's rights or obligations under this Lease Agreement, and for all other lawful purposes.

Section 8.2 Liens. The Town shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Property, other than Permitted Encumbrances and for which the Bank provides its prior written approval, which approval shall be at Bank's sole discretion. In the event the Town shall at any time during the term of this Lease Agreement cause any changes, alterations, additions, improvements, or other work to be done or performed or materials to be supplied, in or upon the Property, the Town shall pay, when due, all sums of money that may become due for, or purporting to be for, any labor, services, materials, supplies or equipment furnished or alleged to have been furnished to or for the Town in, upon or about the Property and which may be secured by a mechanics', materialmen's or other lien against the Property or the Authority's interest therein, and will cause each such lien to be fully discharged and released at the time the performance of any obligation secured by any such lien matures or becomes due, except that, if the Town desires to contest any such lien, it may do so as long as such contest is in good faith and the Town provides prior notice to the Authority and the Bank and such contest does not adversely affect the rights or interests of the Authority and the Bank. If any such lien shall be reduced to final judgment and such judgment or such process as may be issued for the enforcement thereof is not promptly stayed, or if so stayed and said stay thereafter expires, the Town shall forthwith pay and discharge said judgment.

Section 8.3 Quiet Enjoyment. The parties hereto mutually covenant that the Town, by keeping and performing the covenants and agreements herein contained, subject to the terms and conditions hereof, shall at all times during the term of this Lease Agreement peaceably and quietly have, hold and enjoy the Property without suit, trouble or hindrance from the Authority.

Section 8.4 Authority Not Liable. The Authority, the Bank and their directors, officers, agents and employees and successors and assigns, shall not be liable to the Town or to any other party whomsoever for any death, injury or damage that may result to any person or property by or from any cause whatsoever in, on or about the Property. To the extent permitted by law, the Town shall, at its expense, indemnify and hold the Authority, the Bank and all directors, members, officers and employees and successors and assigns thereof harmless against and from any and all claims by or on behalf of any person, firm, corporation or Governmental Authority arising from the acquisition, construction, occupation, use, operation, maintenance, possession, condition, conduct or management of or from any work done in or about the Property or from the subletting of any part thereof, including any liability for violation of conditions, agreements, restrictions, laws, ordinances, or regulations affecting the Property or the occupancy or use thereof, but excepting the negligence or willful misconduct of the persons or entity seeking indemnity. The Town also covenants and agrees, at its expense, to pay and indemnify and save the Authority, the Bank and all directors, officers and employees and successors and assigns thereof harmless against and from any and all claims arising from (a) any condition of the Property and the adjoining sidewalks and passageways, (b) any breach or default on the part of the Town in the performance of any covenant or agreement to be performed by the Town pursuant to this Lease Agreement, (c) any act or negligence of licensees in connection with their use, occupancy or operation of the Property, or (d) any accident, injury or damage whatsoever caused to any person, firm or corporation in or about the Property or upon or under the sidewalks and from and against all costs, reasonable counsel fees, expenses and liabilities incurred in any action or proceeding brought by reason of any claim referred to in this Section, but excepting the negligence or willful misconduct of the person or entity seeking indemnity. In the event that any action or proceeding is brought against the Authority, the Bank or any director, member, officer or employee or any successors or assigns thereof, by reason of any such claim, the Town, upon notice from the Authority, the Bank or such director, member, officer or employee or successor or assign thereof as the case may be, covenants to resist or defend such action or proceeding by counsel reasonably satisfactory to the Authority, the Bank or such director, member, officer or employee or successor or assign thereof, as the case may be.

It is the intention of the parties that the Authority, the Bank and all officers and directors and successors and assigns thereof shall not incur any pecuniary liability by reason of the terms of this Lease Agreement, or the undertakings required of the Authority or Bank hereunder or any director, officer or employee and successors and assigns thereof; nevertheless, if the Authority, the Bank or any officer or director or any successor or assign thereof should incur any such pecuniary liability, then in such event the Town shall indemnify and hold harmless the Authority, the Bank and all directors, officers and employees and successors and assigns thereof, against all claims by or on behalf of any person, firm, corporation or governmental authority arising out of the same, or in connection with any action or proceeding brought thereon, but excepting the negligence or willful misconduct of the person or entity seeking indemnity, and upon notice from the Authority or Bank, the Town shall defend the Authority or Bank in any such action or proceeding. This Section shall survive the termination of this Lease Agreement.

Section 8.5 Assignment and Subleasing. Neither this Lease Agreement nor any interest of the Town hereunder shall be sold, mortgaged, pledged, assigned, or transferred

by the Town by voluntary act or by operation of law or otherwise; provided, however, that the Property may be subleased in whole or in part by the Town with the prior written consent of the Authority and the Bank, provided further that, any such sublease shall be subject to all of the following conditions:

(a) this Lease Agreement and the obligation of the Town to make all Rental Payments hereunder shall remain the primary obligation of the Town;

(b) the Town shall, within 30 days after the delivery thereof, furnish or cause to be furnished to the Authority and the Bank a true and complete copy of such sublease;

(c) no such sublease by the Town shall cause the Property to be used for a purpose other than a governmental or proprietary function authorized under the provisions of the Constitution and laws of the State of California;

(d) any sublease of the Property by the Town shall explicitly provide that such sublease is subject to all rights of the Authority under this Lease Agreement, including, the right to re-enter and re-let the Property or terminate this Lease Agreement upon a default by the Town;

(e) the Town certifies in writing to the Bank that (i) no event of default hereunder has occurred and is continuing, (ii) the sublease shall not cause the Town to violate any of its covenants, representations and warranties made herein and/or in the Revolving Credit Agreement and (iii) such sublease will not affect the intended use of the Property and will not interfere with the Town's beneficial use and enjoyment of the Property or result in any abatement of Rental Payments hereunder or impair the security granted to the Bank by the Revolving Credit Agreement and to which the Authority and the Town consent in writing; and

(f) such other conditions as the Bank may reasonably require.

Section 8.6 Title to Property. Upon the termination or expiration of this Lease Agreement (other than as provided in Sections 6.01 and 7.01 hereof), all right, title and interest in and to the Property shall vest in the Town. Upon any such termination or expiration, the Authority shall execute such conveyances, deeds and other documents as may be necessary to effect such vesting of record.

Section 8.7 Fair Rental Value. The Town and the Authority have agreed and determined that such total rental to be paid hereunder does not exceed the fair rental value of the Property during the Term of this Lease. In making such determination, consideration has been given to the fair rental value of the Property (including but not limited to costs of maintenance, taxes and insurance), the uses and purposes which may be served by the Property and the essential public benefits therefrom which will accrue to the Town and the general public.

Section 8.8 Representations of the Town. The Town represents and warrants to the Authority that (a) the Town has the full power and authority to enter into, to execute and to

deliver this Lease Agreement and to perform all of its duties and obligations hereunder, and has duly authorized the execution and delivery of this Lease Agreement.

Section 8.9 Representation of the Authority. The Authority represents and warrants to the Town that the Authority has the full power and authority to enter into, to execute and to deliver this Lease Agreement and to perform all of its duties and obligations hereunder, and has duly authorized the execution and delivery of this Lease Agreement.

Section 8.10 Compliance with Law, Regulations, Etc.

(a) The Town has, after due inquiry, no knowledge and has not given or received any written notice indicating that the Property or the past or present use thereof or any practice, procedure or policy employed by it in the conduct of its business materially violates any Environmental Regulation or any other applicable law, regulation, code, order, rule, judgment or consent agreement, or restriction including, without limitation, those relating to zoning, building, use and occupancy, fire safety, health, sanitation, ecological matters, hazardous or toxic materials, substances or wastes, conservation, parking, architectural barriers to the handicapped, or restrictive covenants or other agreements affecting title to the Property (collectively, “Laws and Regulations”). Without limiting the generality of the foregoing, neither the Town nor to the best of its knowledge, after due inquiry, any prior or present owner, tenant or subtenant of the Property has, other than as set forth in subsections (a) and (b) of this Section or as may have been fully remediated, abated or otherwise addressed in accordance with Laws and Regulations, (i) generated, used, treated, stored, transported, managed, located or disposed of any material amount of flammable explosives, polychlorinated biphenyl compounds, heavy metals, chlorinated solvents, cyanide, radon, petroleum products, asbestos or any Asbestos Containing Materials, methane, radioactive materials, pollutants, hazardous materials, hazardous wastes, hazardous, toxic, or regulated substances or related materials, as defined in CERCLA, RCRA, CWA, CAA, TSCA and Title III, and the regulations promulgated pursuant thereto, and in all other Environmental Regulations applicable to the Authority or the Town, the Property or the business operations conducted by the Authority or the Town thereon (collectively, “Hazardous Materials”) at, on, from or beneath the Property, (ii) pumped, spilled, leaked, disposed of, emptied, discharged or released (collectively “Release”) any amount of Hazardous Materials on, from or beneath the Property other than in de minimis quantities and in compliance with Environmental Regulations, or (iii) maintained or stored any amount of petroleum products at the Property in underground storage tanks.

(b) Excluded from the representations and warranties in subsection (a) of this Section with respect to Hazardous Materials are those Hazardous Materials in those amounts ordinarily found in de minimis amounts in the inventory of, or used in the maintenance of office buildings, the use, treatment, storage, transportation and disposal of which has been and shall be in compliance with all Laws and Regulations.

(c) No portion of the Property located in an area of high potential incidence of radon has an unventilated basement or subsurface portion which is occupied or used for any purpose other than the foundation or support of the improvements to the Property, respectively.

(d) The Town has not received any notice from any insurance company which has issued a policy with respect to the Property or from the applicable state or local government agency responsible for insurance standards (or any other body exercising similar functions) requiring the performance of any repairs, alterations or other work, which repairs, alterations or other work have not been completed at the Property, respectively. The Town has not received any notice of default or breach which has not been cured under any covenant, condition, restriction, right-of-way, reciprocal easement, agreement or other easement affecting the Property which is to be performed or complied with by it.

Section 8.11 Environmental Compliance.

(a) Neither the Town nor the Authority shall use or permit the Property or any part thereof to be used to generate, manufacture, refine, treat, store, handle, transport or dispose of, transfer, produce or process Hazardous Materials, except, and only to the extent, in de minimis quantities as necessary to maintain the improvements on the Property and then only in compliance with all Environmental Regulations, nor shall it permit, as a result of any intentional or unintentional act or omission on its part or by any tenant, subtenant, licensee, guest, invitee, contractor, employee or agent, the storage, transportation, disposal or use of Hazardous Materials or the Release or threat of Release of Hazardous Materials on, from or beneath the Property or onto any other property. Upon the occurrence of any Release or threat of Release of Hazardous Materials, the Authority or the Town shall promptly commence and perform, or cause to be commenced and performed promptly all investigations, studies, sampling and testing, and all remedial, removal, abatement and other actions necessary to clean up, remove and otherwise fully address all Hazardous Materials so Released on, from or beneath the Property or other property, in compliance with all Environmental Regulations and to the satisfaction of applicable Governmental Authorities.

(b) The Town and the Authority shall comply with, and shall cause all tenants, subtenants, licensees, guests, invitees, contractors, employees and agents on the Property to comply with, all Environmental Regulations, and shall keep the Property free and clear of any liens or restrictions on use imposed pursuant thereto (provided, however, that any such liens, if not discharged, may be bonded). The Town and the Authority shall cause each tenant under any lease, and use their best efforts to cause all of such tenant's subtenants, agents, licensees, employees, contractors, guests and invitees and the guests and invitees of all of the foregoing to comply with all Environmental Regulations with respect to the Property; provided, however, that notwithstanding that a portion of this covenant is limited to the Town's and Authority's use of its best efforts, the Authority and the Town shall remain solely responsible for ensuring such compliance and such limitation shall not diminish or affect in any way the Authority's or the Town's obligations contained in subsection (c) of this Section. Upon receipt of any notice with regard to the Release of Hazardous Materials on, from or beneath the Property, the Town or the Authority, as appropriate, shall give prompt written notice thereof to Governmental Authorities, as applicable, and to the Bank prior to the expiration of any period in which to respond to such notice under any Environmental Regulation.

(c) Irrespective of whether any representation or warranty contained in Section 8.11 hereof is not true or correct, the Authority and the Town shall, to the extent

permitted by law, defend, indemnify and hold harmless the Bank, the Authority and their respective partners, depositors and each of its and their employees, agents, officers, directors, trustees, successors and assigns, from and against any claims, demands, penalties, fines, attorneys' fees (including, without limitation, attorneys' fees incurred to enforce the indemnification contained in this Section), consultants' fees, investigation and laboratory fees, liabilities, settlements (five Business Days' prior notice of which the Authority shall have delivered to the Town), court costs, damages, losses, costs or expenses of whatever kind or nature, known or unknown, contingent or otherwise, occurring in whole or in part, arising out of, or in any way related to, (i) the presence, disposal, Release, threat of Release, removal, discharge, storage or transportation of any Hazardous Materials on, from or beneath the Property, (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials, (iii) any action, notice of violation, fine, penalty or lawsuit brought or threatened, settlement reached (five Business Days' prior notice of which the Authority shall have delivered to the Town), or governmental order relating to Hazardous Materials on, from or beneath the Property, (iv) any violation of or compliance with Environmental Regulations or subsection (a) or (b) of this Section by either of them or any of their agents, tenants, employees, contractors, licensees, guests, subtenants or invitees, and (v) the imposition of any governmental lien for the recovery of environmental cleanup or removal costs. To the extent that either the Authority or the Town is strictly liable under any Environmental Regulation, its obligation to the Bank and the other indemnitees under the foregoing indemnification shall likewise be without regard to fault on its part with respect to the violation of any Environmental Regulation which results in liability to any indemnitee.

(d) Notwithstanding the generality of the foregoing, the Town shall specifically comply with all requirements regarding lead paint and Asbestos Containing Materials and shall inspect the Property and develop, maintain, update and keep copies of relevant management plans at the Property in accordance with all Environmental Regulations. The Town shall maintain all Asbestos Containing Materials and lead paint in an undamaged state and perform any demolition, renovation or other activities in accordance with all Environmental Regulations.

(e) Neither the Bank nor the Authority shall be obligated to monitor compliance of the Property with applicable environmental or other laws. So long as the Town is in possession of the Property, neither the Bank nor the Authority shall have any obligations or responsibility to involve itself with the Property under any circumstance, including any instance where either the Authority or Bank is notified of any noncompliance of the Property with applicable environmental or other laws. The Town represents that the Property is currently in full compliance with all Environmental Regulations. It is expressly understood that neither the Bank nor the Authority shall have the right or the obligation to monitor the Town's compliance with Environmental Regulations.

Section 8.12 No Vacation. The Town shall not abandon or vacate the Property.

ARTICLE 9

**NO CONSEQUENTIAL DAMAGES; USE OF THE PROPERTY;
SUBSTITUTION OR RELEASE**

Section 9.1 No Consequential Damages. In no event shall the Authority be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Lease Agreement or the Town's use of the Property.

Section 9.2 Use of the Property. The Town will not use, operate or maintain the Property (or permit the Property to be used, operated or maintained) improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Lease Agreement. In addition, the Town agrees to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of the Property) with all law, regulations and rulings of the jurisdictions in which its operations may extend and any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Property; provided, however, that the Town may contest in good faith the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Authority, adversely affect the estate of the Authority in and to any of the Property or its interest or rights under this Lease Agreement.

Section 9.3 Substitution or Release of the Property. The Town shall have the right to substitute alternate real property for any portion of the Property or to release a portion of the Property from this Lease Agreement. All costs and expenses incurred in connection with such substitution or release shall be borne by the Town. Notwithstanding any substitution or release pursuant to this Section, there shall be no reduction in or abatement of the Base Rental Payments due from the Town hereunder as a result of such substitution or release. Any such substitution or release of any portion of the Property shall be subject to the following specific conditions, which are hereby made conditions precedent to such substitution or release:

(a) If requested by the Bank, an independent certified real estate appraiser selected by the Town shall have found (and shall have delivered a certificate to the Town and the Bank setting forth its findings) that the Property, as constituted after such substitution or release, (i) has an annual fair rental value greater than or equal to the maximum amount of Base Rental Payments payable by the Town in any Rental Period, and (ii) has a useful life equal to or greater than the useful life of the Property, as constituted prior to such substitution or release;

(b) the Town shall have obtained or caused to be obtained an ALTA or CLTA title insurance policy or policies with respect to any substituted property in the amount of the greater of the aggregate amount of then remaining principal components of the Base Rental Payments due under this Lease Agreement or the fair market value of such substituted property (which fair market value shall have been determined by an independent certified real estate appraiser), of the type and with the endorsements described in Section 5.02 hereof;

(c) the Town and the Authority shall have executed, and the Town shall have caused to be recorded with the San Bernardino County Recorder, any document necessary

to reconvey to the Town the portion of the Property being substituted or released and to include any substituted real property in the description of the Property contained herein and in the Site Lease;

(d) the Bank shall have consented in writing to such substitution or release in its sole and absolute discretion and shall have been given no less than thirty days' prior written notice of such substitution or release;

(e) the Town has certified in writing to the Authority and the Bank that the Fair Rental Value of the Property which remains subject to this Lease Agreement following a release or substitution is at least equal to the Fair Rental Value of the Property as constituted prior to such release or substitution and that the useful life of the remaining Property extends at least fifteen years from the expected Terminate Date;

(f) the Town has certified in writing to the Authority and the Bank that the substituted or remaining Property is essential to the Town's efficient and economic operation, serves an essential governmental function of the Town and constitutes property which the Town is permitted to lease under the laws of the State of California;

(g) the substituted or remaining Property does not cause the Town to violate any of its covenants, representations and warranties made herein, and no event giving rise to an abatement of Base Rental Payments has occurred or is continuing with respect to the substituted or remaining Property;

(h) the Bank has received evidence that the substituted property is not located in a 100-year flood area as shown on a Flood Insurance Rate Map published by the Federal Emergency Management Agency and other flood diligence documents that the Bank may reasonably require; and

(i) the Town has delivered to the Bank an environmental questionnaire with respect to the substituted Property, evidencing the absence of any environmental conditions adversely affecting the substituted Property.

ARTICLE 10

MISCELLANEOUS

Section 10.1 Law Governing. THIS LEASE AGREEMENT SHALL BE GOVERNED EXCLUSIVELY BY THE PROVISIONS HEREOF AND BY THE LAWS OF THE STATE OF CALIFORNIA AS THE SAME FROM TIME TO TIME EXIST.

Section 10.2 Notices. All written notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder shall be given to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other parties in writing from time to time, namely:

If to the Town: Town of Apple Valley
14955 Dale Evans Parkway
Apple Valley, CA 92307
Attention: Town Manager
Phone: (760) 240-7000
Telecopier: _____

If to the Authority: Apple Valley Public Financing Authority
c/o Town of Apple Valley
14955 Dale Evans Parkway
Apple Valley, CA 92307
Attention: Town Manager
Phone: (760) 240-7000
Telecopier: _____

If to the Bank: JPMorgan Chase Bank, National Association

Phone: _____
Telecopier: _____

Each such notice, statement, demand, consent, approval, authorization, offer, designation, request or other communication hereunder shall be deemed delivered to the party to whom it is addressed (a) if personally served or delivered, upon delivery, (b) if given by electronic communication, whether by telex, telegram or telecopier, upon the sender's receipt of an appropriate answerback or other written acknowledgment, (c) if given by registered or certified mail, return receipt requested, deposited with the United States mail postage prepaid, 72 hours after such notice is deposited with the United States mail, (d) if given by overnight courier, with courier charges prepaid, 24 hours after delivery to said overnight courier, or (e) if given by any other means, upon delivery at the address specified in this Section.

Section 10.3 Validity and Severability. If for any reason this Lease Agreement shall be held by a court of competent jurisdiction to be void, voidable or unenforceable by the Authority or by the Town, or if for any reason it is held by such a court that any of the covenants and conditions of the Town hereunder, including the covenant to pay Rental Payments, is unenforceable for the full term hereof, then and in such event this Lease Agreement is and shall be deemed to be a Lease Agreement under which the Rental Payments are to be paid by the Town annually in consideration of the right of the Town to possess, occupy and use the Property, and all of the terms, provisions and conditions of this Lease Agreement, except to the extent that such terms, provisions and conditions are contrary to or inconsistent with such holding, shall remain in full force and effect.

Section 10.4 Net-Net-Net Lease. This Lease Agreement shall be deemed and construed to be a “net-net-net lease” and the Town hereby agrees that the Rental Payments shall be an absolute net return to the Authority, free and clear of any expenses, charges or set-offs whatsoever and notwithstanding any dispute between the Town and the Authority.

Section 10.5 Taxes. The Town shall pay or cause to be paid all taxes and assessments of any type or nature charged to the Authority or affecting the Property or the respective interests or estates therein; provided, however, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Town 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.

After giving notice to the Bank, the Town or any sublessee may, at the Town’s or such sublessee’s 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 unless the Authority shall notify the Town or such sublessee that, in the opinion of independent counsel, by nonpayment of any such items, the interest of the Authority in the Property will be materially endangered or the Property, or any part thereof, will be subject to loss or forfeiture, in which event the Town or such sublessee shall promptly pay such taxes, assessments or charges or provide the Authority with full security against any loss which may result from nonpayment, in form satisfactory to the Authority.

Section 10.6 Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Lease Agreement.

Section 10.7 Amendments.

(a) This Lease Agreement and the Site Lease, and the rights and obligations of the Authority and the Town hereunder and thereunder, may be amended at any time by an amendment hereto or thereto upon execution by the Town and the Authority of such amendment, but only with the prior written consent of the Bank.

Section 10.8 Third-Party Beneficiaries. The Bank is a third-party beneficiary of this Lease Agreement with all rights of a third-party beneficiary.

Section 10.9 Assignment. The Town and the Authority hereby acknowledge the assignment of the Site Lease and this Lease Agreement, and the Base Rental Payments payable hereunder, to the Bank pursuant to the Assignment Agreement and that the Bank shall control all rights and remedies granted to the Authority under the Site Lease and this Lease Agreement, except that the Bank is not responsible for any obligations of the Authority under the Site Lease or this Lease Agreement.

The Assigned Rights, and all proceeds therefrom, may be further assigned, reassigned, participated or pledged by the Bank on the same terms and conditions as the Note and/or the Revolving Credit Agreement may be assigned as provided in Section 9.06 of the Revolving Credit Agreement.

Section 10.10 Execution in Counterparts. This Lease Agreement may be simultaneously executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be executed by their respective officers thereunto duly authorized, all as of the day and year first written above.

TOWN OF APPLE VALLEY

By: _____

Its: _____

ATTEST:

Town Clerk

APPLE VALLEY PUBLIC FINANCING AUTHORITY

By: _____

Its: _____

ATTEST:

Secretary

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in the real property conveyed under the foregoing to the Town of Apple Valley, a municipal corporation of the State of California, is hereby accepted by the undersigned officer or agent on behalf of the Town Council of the Town of Apple Valley, pursuant to authority conferred by resolution of the said Town Council adopted on _____, 20__ and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____, 20__

TOWN OF APPLE VALLEY

By: _____

Its: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ before me, _____, Notary Public,
personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(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 the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

SIGNATURE OF NOTARY PUBLIC

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ before me, _____, Notary Public,
personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(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 the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

SIGNATURE OF NOTARY PUBLIC

EXHIBIT A

DESCRIPTION OF THE PROPERTY

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO:

STRADLING YOCCA CARLSON & RAUTH

660 Newport Center Drive, Suite 1600

Newport Beach, California 92660

Attn: Brian P. Forbath, Esq.

[Space above for Recorder's use.]

**This document is recorded for the benefit of the
Town of Apple Valley and the recording is
fee-exempt under Section 27383 of the
Government Code.**

SITE AND FACILITIES LEASE

by and between

TOWN OF APPLE VALLEY

and

APPLE VALLEY PUBLIC FINANCING AUTHORITY

Dated as of _____, 2019

Relating to

TABLE OF CONTENTS

	Page
ARTICLE I	
DEFINITIONS	
ARTICLE II	
LEASE OF THE PROPERTY; RENTAL	
Section 2.01. Lease of Property	132
Section 2.02. Rental	133
ARTICLE III	
QUIET ENJOYMENT	
ARTICLE IV	
SPECIAL COVENANTS AND PROVISIONS	
Section 4.01. Waste.....	134
Section 4.02. Further Assurances and Corrective Instruments	134
Section 4.03. Waiver of Personal Liability	134
Section 4.04. Taxes.....	134
Section 4.05. Right of Entry	134
Section 4.06. Representations of the Town	134
Section 4.07. Representations of the Authority	135
ARTICLE V	
ASSIGNMENT, SELLING AND SUBLEASING	
Section 5.01. Assignment, Selling and Subleasing.....	135
Section 5.02. Restrictions on Town	135
ARTICLE VI	
IMPROVEMENTS	
ARTICLE VII	
TERM; TERMINATION	
Section 7.01. Term.....	136
Section 7.02. Extension; Early Termination.....	136
ARTICLE VIII	
MISCELLANEOUS	
Section 8.01. Binding Effect.....	136
Section 8.02. Severability	136
Section 8.03. Amendments; Substitution and Release.....	136

Section 8.04. Execution in Counterparts.....137
Section 8.05. Applicable Law137
Section 8.06. Captions137
Section 8.07. No Merger137

EXHIBIT A DESCRIPTION OF PROPERTY A-1

SITE AND FACILITIES LEASE

THIS SITE AND FACILITIES LEASE (this “Site Lease”), executed and entered into as of _____, 2019, is by and between the TOWN OF APPLE VALLEY (the “Town”), a municipal corporation of the State of California, as lessor, and the APPLE VALLEY PUBLIC FINANCING AUTHORITY (the “Authority”), a joint powers authority organized and existing under the laws of the State of California, as lessee.

RECITALS

WHEREAS, the Town has issued its 2018-19 Taxable Tax and Revenue Anticipation Note (the “Note”) in order to provide short-term financing for the Town, and payments on the Note secure payments on a revolving line of credit under a Revolving Credit Agreement dated as of October __, 2018 among JPMorgan Chase Bank, National Association (together with its successors and assigns, the “Bank”), the Town and the Authority (as supplemented and amended, the “Line of Credit”); and

WHEREAS, in order to provide additional security for, or increase the amount available under, the Line of Credit, the Town hereby leases certain real property known as the Town’s Town Hall, Recreation Center and associated surface parking located at 14955 Dale Evans Parkway in the Town, and, as applicable, the improvements thereto described in Exhibit A hereto (the “Property”), to the Authority pursuant to this Site Lease, and commencing on the Lease Effective Date the Town will sublease the Property back from the Authority pursuant to a Lease Agreement, dated the date hereof (as supplemented and amended, the “Lease Agreement”);

WHEREAS, to induce the Bank to increase the amount available under the Line of Credit, the Town and the Authority have determined that it would be in the best interests of the Town and the Authority to provide the funds to additionally secure payments on the Line of Credit;

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Site Lease do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Site Lease and are duly authorized to have this Site Lease recorded on and after the Lease Effective Date;

NOW, THEREFORE, in consideration of the premises and of the mutual agreements and covenants contained herein and in the Line of Credit and for other valuable consideration, the parties hereto do hereby agree as follows:

ARTICLE 11

DEFINITIONS

Except as otherwise defined herein, or unless the context clearly otherwise requires, words and phrases defined in Article I of the Lease Agreement shall have the same meanings in this Site Lease.

ARTICLE 12

LEASE OF THE PROPERTY; RENTAL

Section 12.1 Lease of Property. On and after the Lease Effective Date, the Town hereby leases to the Authority, and the Authority hereby leases from the Town, the Property, subject only to Permitted Encumbrances, to have and to hold for the term of this Site Lease.

The Town further grants, conveys and confirms to the Authority, for the use, benefit and enjoyment of the Authority, its agents, successors and assigns (including but not limited to the Bank) and its successors in interest to the Property, and their respective employees, invitees, agents, independent contractors, patrons, customers, guests, and members of the public visiting the Property, during the term of this Site Lease, an irrevocable, non-exclusive easement onto, upon, over, across and through the real property surrounding the Property (the "Easement Property") to and from the Property for the purposes of: (a) ingress, egress, passage or access to and from the Property by pedestrian or vehicular traffic; (b) inspection of all or any portion of the real or personal property, equipment and/or fixtures comprising the Property; (c) exercising the remedies provided in the Lease Agreement and this Site Lease; (d) to permit the operation and maintenance of the Property and the installation, maintenance and replacement of utility wires, cables, conduits and pipes; (e) providing vehicular parking spaces to the extent legally required for normal operation of the Property; and (f) other purposes and uses necessary or desirable for access to and from the Property together with the right of access to the rights of way from adjacent lands of the Town. Without limiting the generality of the foregoing, the Authority shall have full access to the exterior portions and loading areas of the Property.

The Town hereby represents, warrants and covenants that: (i) none of the Permitted Encumbrances impair the use of the Property for its intended purposes under this Site Lease and the Lease Agreement and none of the Permitted Encumbrances will interfere with the Town's beneficial use and enjoyment of the Property or result in any abatement of Rental Payments under the Lease Agreement; and (ii) none of the Permitted Encumbrances adversely affect the rights and interests of the Authority or the Bank under this Site Lease, the Lease Agreement or the Assignment Agreement.

The Town covenants and agrees that in the event any encumbrance, asserted encumbrance, claim, dispute or other issue arises with respect to the Town's fee simple legal title to (or the Authority's first priority leasehold interest in) the Property or any of the real property on which the Property is located, or any other matters relating to the Town's valid fee title to, or beneficial use and enjoyment of, the Property or any of the real property on which the Property located (each of the foregoing referred to as a "Real Property Issue"), the Town will take all steps necessary to promptly quiet, resolve and/or eliminate such Real Property Issue and ensure the Town has beneficial use and enjoyment of the Property and provide the Authority with and will ensure the Authority has, adequate access to the Property and the real property on which the Property is located for purposes of accessing, inspecting and/or reletting or exercising remedies under this Site Lease or the Lease Agreement (if necessary)

with respect to the Property and the Town shall ensure that its fee interest and the Authority's first priority leasehold interest in the Property remain free and clear of Real Property Issues. The Town covenants and agrees that the Town shall take all steps necessary (with the Bank's prior written approval) to promptly correct any errors or issues with respect to any legal description or fixture filing (or continuations or amendments thereof) filed or recorded with respect to or encumbering the Property or any of the real property on which the Property is located, in order to protect the Authority's first priority leasehold interest in the Property at all times.

Section 12.2 Rental. The Authority shall pay or make available to the Town all amounts when available under the Revolving Credit Agreement as and for rental of the Property hereunder in an amount not to exceed \$10,000,000 (the "Site Lease Payment").

The Town shall deposit the Site Lease Payment in one or more separate funds or accounts to be held and administered by the Town. The Authority and the Town hereby find and determine that the amount of the Site Lease Payment does not exceed the fair market value of the leasehold interest in the Property which is conveyed hereunder by the Town to the Authority. No other amounts of rental shall be due and payable by the Authority for the use and occupancy of the Property under this Site Lease.

ARTICLE 13

QUIET ENJOYMENT

The parties intend that the Property will be leased back to the Town pursuant to the Lease Agreement for the term thereof. It is further intended that, to the extent provided herein and in the Lease, if an event of default occurs under the Lease Agreement, the Authority, or its assignee, will have the right, for the then remaining term of this Site Lease to (a) take possession of the Property, (b) if it deems it appropriate, cause an appraisal of the Property and a study of the then reasonable use thereof to be undertaken, and (c) relet the Property. The Authority at all times during the term of this Site Lease shall peaceably and quietly have, hold and enjoy all of the Property. Subject to any rights the Town may have under the Lease Agreement (in the absence of an event of default) to possession and enjoyment of the Property, the Town hereby covenants and agrees that it will not take any action to prevent the Authority from having quiet and peaceable possession and enjoyment of the Property during the term hereof and will, at the request of the Authority and at the Town's cost, to the extent that it may lawfully do so, join in any legal action in which the Authority asserts its right to such possession and enjoyment.

Default. If the Authority defaults in the performance of any obligation on its part to be performed under the terms of this Site Lease, which default continues for 30 days following notice and demand for correction thereof to the Authority, the Town may exercise any and all remedies granted by law, except that no merger of this Site Lease and of the Lease shall be deemed to occur as a result thereof and this Site Lease may not be terminated by the Town as a remedy for such default. Notwithstanding the foregoing, so long as the Lease Agreement remains in effect, the Town shall continue to pay the Rental Payments as and when due under the Lease Agreement to the Bank in accordance with the Assignment Agreement. In the event of the occurrence of an Event of Default under the Lease Agreement, the Authority may (i) exercise the remedies provided in the Lease Agreement, (ii) use the Property for any lawful purpose, subject to any applicable legal limitations or restrictions, and (iii) exercise all options provided herein or under applicable law.

ARTICLE 14

SPECIAL COVENANTS AND PROVISIONS

Section 14.1 Waste. The Authority agrees that at all times that it is in possession of the Property, it will not commit, suffer or permit any waste on the Property, and that it will not willfully or knowingly use or permit the use of the Property for any illegal purpose or act.

Section 14.2 Further Assurances and Corrective Instruments. The Town and the Authority 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 Site Lease and the Lease Agreement.

Section 14.3 Waiver of Personal Liability. All liabilities under this Site Lease on the part of the Authority shall be solely liabilities of the Authority as a joint powers authority, and the Town hereby releases each and every director and officer of the Authority of and from any personal or individual liability under this Site Lease. No director or officer of the Authority shall at any time or under any circumstances be individually or personally liable under this Site Lease to the Town or to any other party whomsoever for anything done or omitted to be done by the Authority hereunder.

All liabilities under this Site Lease on the part of the Town shall be solely liabilities of the Town, and the Authority hereby releases each and every member of the Town Council, officer and employee of the Town of and from any personal or individual liability under this Site Lease. No member of the Town Council, officer or employee of the Town shall at any time or under any circumstances be individually or personally liable under this Site Lease to the Authority or to any other party whomsoever for anything done or omitted to be done by the Town hereunder.

Section 14.4 Taxes. The Town 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 14.5 Right of Entry. The Town reserves the right for any of its duly authorized representatives to enter upon the Property at any reasonable time to inspect the same.

Section 14.6 Representations of the Town. The Town represents and warrants to the Authority as follows:

(a) the Town has the full power and authority to enter into, to execute and to deliver this Site Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution of this Site Lease;

(b) the Town has sufficient interest in the Property to lease it hereunder and, in the event of a title defect in the Property that impairs the right to use and occupy the

Property, the Town covenants that it will exercise its power, including but not limited to, its condemnation powers to the extent permitted by law, to obtain the necessary rights in the Property and to cure such defect and limitation of the right to use and occupancy;

(c) except for Permitted Encumbrances, the Property is not subject to any dedication, easement, right of way, reservation in patent, covenant, condition, restriction, lien or encumbrance which would prohibit or materially interfere with the use of the Property as contemplated by the Town; and

(d) all taxes, assessments or impositions of any kind with respect to the Property, except current taxes, have been paid in full.

Section 14.7 Representations of the Authority. The Authority represents and warrants to the Town that the Authority has the full power and authority to enter into, to execute and to deliver this Site Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution and delivery of this Site Lease.

ARTICLE 15

ASSIGNMENT, SELLING AND SUBLEASING

Section 15.1 Assignment, Selling and Subleasing. This Site Lease may be assigned or sold, and the Property may be subleased, as a whole or in part, by the Authority, without the necessity of obtaining the consent of the Town but only with the prior written consent of the Bank, if an event of default occurs under the Lease Agreement. The Authority shall, within 30 days after such an assignment, sale or sublease, furnish or cause to be furnished to the Town a true and correct copy of such assignment, sublease or sale, as the case may be.

Section 15.2 Restrictions on Town. The Town agrees that, except with respect to Permitted Encumbrances, it will not mortgage, sell, encumber, assign, transfer or convey the Property or any portion thereof on and after the date of execution of this Site Lease and/or during the term of this Site Lease.

If the whole or any part of the Property, or any improvements thereon, are taken by eminent domain proceedings, the interest of the Authority will be the aggregate amount of the then unpaid principal components of the Base Rental Payments payable under the Lease Agreement and the balance of the award, if any, will be paid to the Town. The Town hereby agrees, to the extent permitted by law, that the compensation to be paid in any condemnation proceedings brought by or on behalf of the Town with respect to the Property or any improvement thereon shall be in an amount not less than the total unpaid principal component of Base Rental Payments plus the interest component of Lease Payments accrued to the date of payment of all Rental Payments under the Lease Agreement.

ARTICLE 16

IMPROVEMENTS

Title to all improvements made on the Property during the term hereof shall vest in the Town.

ARTICLE 17

TERM; TERMINATION

Section 17.1 Term. The term of this Site Lease shall commence on the Lease Effective Date and shall remain in full force and effect from such date to and including [October __, 2021], unless such term is extended or sooner terminated as hereinafter provided.

Section 17.2 Extension; Early Termination. If, on [October __, 2021], the Line of Credit shall not be fully paid, or the Revolving Credit Agreement shall not be terminated or discharged by its terms, or if the Rental Payments payable under the Lease Agreement shall have been abated at any time, then the term of this Site Lease shall be automatically extended until the date upon which the Line of Credit shall be fully paid and the Revolving Credit Agreement shall be terminated or discharged by its terms, except that the term of this Site Lease shall in no event be extended more than fifteen years. If, on or prior to [October __, 2021], the Line of Credit shall be fully paid and the Revolving Credit Agreement shall be terminated or discharged by its terms, the term of this Site Lease shall end simultaneously therewith.

ARTICLE 18

MISCELLANEOUS

Section 18.1 Binding Effect. This Site Lease shall inure to the benefit of and shall be binding upon the Town, the Authority and their respective successors and assigns. The Bank is hereby made a third-party beneficiary hereunder with all rights of a third-party beneficiary.

Section 18.2 Severability. In the event any provision of this Site Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. The Authority and the Town each hereby declares that it would have entered into this Site Lease and each and every other Section, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Site Lease may be held illegal, invalid or unenforceable.

Section 18.3 Amendments; Substitution and Release. This Site Lease may be amended, changed, modified, altered or terminated only in accordance with the provisions of the Lease Agreement and with the prior written consent of the Bank. The Town shall have

the right to substitute alternate real property for the Property or to release portions of the Property as provided in the Lease Agreement. If the Town exercises its option under the Lease Agreement and satisfies the conditions therein provided to substitute property for the Property in whole or in part, such substitution shall also automatically operate to substitute property for the Property leased hereunder. If the Town exercises its option under the Lease Agreement and satisfies the conditions therein provided to release any portion of the Property from the Lease Agreement, such release shall also automatically operate to release property hereunder. The description of the property leased under the Lease Agreement shall conform at all times to the description of the property leased hereunder.

Section 18.4 Execution in Counterparts. This Site Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 18.5 Applicable Law. This Site Lease shall be governed by and construed in accordance with the laws of the State of California.

Section 18.6 Captions. The captions or headings in this Site Lease are for convenience only and in no way define or limit the scope or intent of any provision of this Site Lease.

Section 18.7 No Merger. Neither this Site Lease, the Lease Agreement nor any provisions hereof or thereof shall be construed to effect a merger of the title of the Town to the Property under this Site Lease and the Town's leasehold interest therein under the Lease Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Site Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first written above.

TOWN OF APPLE VALLEY

By: _____

Its: _____

ATTEST:

Town Clerk

APPLE VALLEY FINANCING AUTHORITY

By: _____

Its: _____

ATTEST:

Secretary

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in the Property conveyed under the foregoing to the Apple Valley Public Financing Authority, a joint exercise of powers authority duly organized under the laws of the State of California, is hereby accepted by the undersigned officer or agent on behalf of the Board of Directors of the Apple Valley Public Financing Authority, pursuant to authority conferred by resolution of the said Board of Directors adopted on _____, 20__ and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____, 20__

APPLE VALLEY PUBLIC FINANCING AUTHORITY

By: _____

Its: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ before me, _____, Notary Public,

personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(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 the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

SIGNATURE OF NOTARY PUBLIC

EXHIBIT A

DESCRIPTION OF THE PROPERTY

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:
STRADLING YOCCA CARLSON & RAUTH
660 Newport Center Drive, Suite 1600
Newport Beach, California 92660
Attn: Brian P. Forbath, Esq.

[Space above for Recorder's use.]

This document is recorded for the benefit of the Town of Apple Valley and the recording is fee-exempt under Section 27383 of the Government Code.

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11921 OF THE CALIFORNIA REVENUE AND TAXATION CODE.

ASSIGNMENT AGREEMENT

by and between

APPLE VALLEY PUBLIC FINANCING AUTHORITY

and

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION,

Dated as of _____, 2019

ASSIGNMENT AGREEMENT

THIS ASSIGNMENT AGREEMENT (this “Assignment Agreement”), executed and entered into as of _____, 2019, is by and between the APPLE VALLEY PUBLIC FINANCING AUTHORITY, a joint powers authority duly organized and existing under the laws of the State of California (the “Authority”), and JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, a banking association duly organized and validly existing under the laws of the United States of America (the “Bank”);

WITNESSETH:

WHEREAS, to induce the Bank to increase the amount available under the Line of Credit and Revolving Credit Agreement, pursuant to a Site and Facilities Lease, dated as of the date hereof (the “Site Lease”), and to be recorded on the Lease Effective Date in the Official Records of San Bernardino County, California, the Town of Apple Valley (the “Town”) will lease to the Authority certain real property owned by the Town, and the improvements thereon (the “Property”);

WHEREAS, the Property known as the Town’s Town Hall, Recreation Center and associated surface parking located at 14955 Dale Evans Parkway is more particularly described in Exhibit A hereto;

WHEREAS, pursuant to a Lease Agreement, dated as of the date hereof (the “Lease Agreement”), a memorandum of which Lease Agreement will be recorded concurrently on the Lease Effective Date in the Official Records of the County of San Bernardino, California, the Authority will lease the Property back to the Town;

WHEREAS, under the Lease Agreement, the Town is obligated to make Base Rental Payments (as defined in the Lease Agreement) to the Authority for the lease of the Property;

WHEREAS, the Authority desires to assign without recourse certain of its rights in the Site Lease and the Lease Agreement, including its rights to receive the Base Rental Payments under the Lease, to the Bank;

WHEREAS, in consideration of the Town and the Authority executing and delivering the Site Lease and the Lease Agreement, providing funds necessary to additionally secure payments on the Line of Credit, and the Authority assigning its rights thereunder to the Bank, the Bank has agreed to enter to increase the amount available under the Line of Credit *each as defined in the Lease Agreement); and

WHEREAS, the Authority has determined that all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Assignment Agreement do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Assignment Agreement and are duly authorized to have this Assignment Agreement recorded on and after the Lease Effective Date;

NOW, THEREFORE, in consideration of the premises and of the mutual agreements and covenants contained herein and in the Line of Credit and for other valuable consideration, the parties hereto do hereby agree as follows:

ARTICLE 19ASSIGNMENT. THE AUTHORITY, FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, DOES HEREBY SELL, ASSIGN AND TRANSFER TO THE BANK, IRREVOCABLY AND ABSOLUTELY, WITHOUT RECOURSE, ALL OF ITS RIGHT, TITLE AND INTEREST IN AND TO THE SITE LEASE AND THE LEASE AGREEMENT, INCLUDING, WITHOUT LIMITATION, ITS RIGHT TO RECEIVE THE BASE RENTAL PAYMENTS TO BE PAID BY THE TOWN UNDER AND PURSUANT TO THE LEASE AGREEMENT; PROVIDED, HOWEVER, THAT THE AUTHORITY SHALL RETAIN THE RIGHTS TO INDEMNIFICATION AND TO PAYMENT OR REIMBURSEMENT OF ITS REASONABLE COSTS AND EXPENSES UNDER THE LEASE AGREEMENT. THIS ASSIGNMENT IS ABSOLUTE AND IS EFFECTIVE ON THE LEASE EFFECTIVE DATE.

ARTICLE 20ACCEPTANCE. THE BANK HEREBY ACCEPTS THE FOREGOING ASSIGNMENT FOR THE PURPOSE OF ADDITIONALLY SECURING THE PAYMENTS DUE UNDER THE LEASE AGREEMENT, THE NOTE AND THE REVOLVING CREDIT AGREEMENT TO, AND THE RIGHTS UNDER THE SITE LEASE AND THE LEASE AGREEMENT OF, THE AUTHORITY, AND THE RIGHTS SO ASSIGNED SHALL BE EXERCISED BY THE BANK, AS PROVIDED IN THE LEASE AGREEMENT, SUBJECT TO THE TERMS AND PROVISIONS OF THE REVOLVING CREDIT AGREEMENT, AND ALL SUCH BASE RENTAL PAYMENTS SHALL BE APPLIED AND THE RIGHTS SO ASSIGNED SHALL BE EXERCISED BY THE BANK AS PROVIDED IN THE LEASE AGREEMENT AND THE REVOLVING CREDIT AGREEMENT.

ARTICLE 21CONDITIONS. EXCEPTING ONLY THE SALE, ASSIGNMENT AND TRANSFER TO THE BANK OF THE AUTHORITY'S RIGHT, TITLE AND INTEREST IN AND TO THE SITE LEASE AND THE LEASE AGREEMENT PURSUANT TO SECTION 1 HEREOF, THIS ASSIGNMENT AGREEMENT SHALL IMPOSE NO OBLIGATIONS UPON THE BANK BEYOND THOSE EXPRESSLY PROVIDED IN THE LEASE AGREEMENT AND THE REVOLVING CREDIT AGREEMENT.

ARTICLE 22NO RIGHT TO AMEND; NO IMPAIRMENT. THE AUTHORITY ACKNOWLEDGES AND AGREES THAT, AS A CONSEQUENCE OF THE ASSIGNMENT AND TRANSFER OF THE AUTHORITY'S RIGHT, TITLE AND INTEREST IN AND TO THE SITE LEASE AND THE LEASE AGREEMENT HEREUNDER, THE AUTHORITY HAS NO RIGHT TO AMEND, MODIFY, COMPROMISE, RELEASE OR TERMINATE THE SITE LEASE OR THE LEASE AGREEMENT WITHOUT THE CONSENT OF THE BANK. THE AUTHORITY SHALL NOT TAKE ANY ACTION THAT MAY IMPAIR THE PAYMENT OF THE BASE RENTAL PAYMENTS OR THE VALIDITY OR ENFORCEABILITY OF THE SITE LEASE OR THE LEASE AGREEMENT.

ARTICLE 23LIMITATION ON FURTHER ASSIGNMENT. THE BANK HEREBY ACKNOWLEDGES THAT SECTION 10.10 OF THE LEASE AGREEMENT PLACES CERTAIN LIMITATIONS ON ANY FUTURE ASSIGNMENT OF THE ASSIGNED PROPERTY. THE BANK HEREBY ACKNOWLEDGES AND AGREES THAT IT MUST COMPLY WITH THE PROVISIONS OF SECTION 10.10 OF THE LEASE AGREEMENT IN CASE OF ANY FUTURE ASSIGNMENT OF THE ASSIGNED PROPERTY. THIS SECTION SHALL NOT BE AMENDED OR REVISED WITHOUT THE EXPRESS PRIOR WRITTEN CONSENT OF THE TOWN.

ARTICLE 24AUTHORITY'S RECEIPT OF BASE RENTAL PAYMENTS. ANY BASE RENTAL PAYMENT RECEIVED BY THE AUTHORITY OR OTHER AMOUNTS TO WHICH BANK IS ENTITLED SHALL BE RECEIVED IN TRUST FOR THE BANK, AND THE AUTHORITY SHALL IMMEDIATELY DELIVER SUCH BASE RENTAL PAYMENT OR OTHER AMOUNT TO THE BANK IN THE FORM RECEIVED AND, IF APPLICABLE, DULY ENDORSED BY THE AUTHORITY FOR DEPOSIT BY THE BANK.

ARTICLE 25FURTHER ASSURANCES. THE AUTHORITY SHALL MAKE, EXECUTE AND DELIVER ANY AND ALL SUCH FURTHER RESOLUTIONS, INSTRUMENTS AND ASSURANCES AS MAY BE REASONABLY NECESSARY OR PROPER TO CARRY OUT THE INTENTION OR TO FACILITATE THE PERFORMANCE OF THIS ASSIGNMENT AGREEMENT, AND FOR THE BETTER ASSURING AND CONFIRMING TO THE BANK, THE RIGHT, TITLE AND INTEREST INTENDED TO BE SOLD, ASSIGNED AND TRANSFERRED PURSUANT HERETO. THE AUTHORITY SHALL COOPERATE FULLY WITH THE BANK, AT THE EXPENSE OF THE TOWN, IN FILING ANY PROOF OF LOSS WITH RESPECT TO ANY INSURANCE POLICY MAINTAINED PURSUANT TO THE LEASE AGREEMENT AND SHALL COOPERATE FULLY WITH THE TOWN IN CONTESTING ANY LIEN FILED OR ESTABLISHED AGAINST THE PROPERTY, UPON THE REQUEST AND AT THE EXPENSE OF THE TOWN, PURSUANT TO THE LEASE AGREEMENT.

ARTICLE 26JUDICIAL REFERENCE. TO THE EXTENT PERMITTED BY LAW, THE AUTHORITY AND THE BANK HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE RELATED DOCUMENTS OR THE TRANSACTION CONTEMPLATED HERBY OR THEREBY. IF AND TO THE EXTENT THAT THE FOREGOING WAIVER OF THE RIGHT TO A JURY TRIAL IS UNENFORCEABLE FOR ANY REASON IN SUCH FORUM, THE AUTHORITY AND THE BANK HEREBY CONSENT TO THE ADJUDICATION OF ANY AND ALL CLAIMS PURSUANT TO JUDICIAL REFERENCE AS PROVIDED IN CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638, AND THE JUDICIAL REFEREE SHALL BE EMPOWERED TO HEAR AND DETERMINE ANY AND ALL ISSUES IN SUCH REFERENCE WHETHER FACT OR LAW. THE AUTHORITY AND THE BANK REPRESENT THAT EACH HAS REVIEWED THIS WAIVER AND CONSENT AND EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS AND CONSENTS TO JUDICIAL REFERENCE FOLLOWING THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL OF ITS CHOICE ON SUCH MATTERS. IN THE EVENT OF LITIGATION, A COPY OF THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO JUDICIAL REFERENCE UNDER CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638 AS PROVIDED HEREIN.

ARTICLE 27FURTHER ASSURANCES. THE AUTHORITY SHALL MAKE, EXECUTE AND DELIVER ANY AND ALL SUCH FURTHER RESOLUTIONS, INSTRUMENTS AND ASSURANCES AS MAY BE REASONABLY NECESSARY OR PROPER TO CARRY OUT THE INTENTION OR TO FACILITATE THE PERFORMANCE OF THIS ASSIGNMENT AGREEMENT, AND FOR THE BETTER ASSURING AND CONFIRMING TO THE BANK, THE RIGHT, TITLE AND INTEREST INTENDED TO BE SOLD, ASSIGNED AND TRANSFERRED PURSUANT HERETO.

ARTICLE 28GOVERNING LAW. THIS ASSIGNMENT AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA.

ARTICLE 29EXECUTION IN COUNTERPARTS. THIS ASSIGNMENT AGREEMENT MAY BE SIMULTANEOUSLY EXECUTED IN SEVERAL COUNTERPARTS, EACH OF WHICH SHALL BE DEEMED TO BE AN ORIGINAL AND ALL OF WHICH SHALL CONSTITUTE BUT ONE AND THE SAME INSTRUMENT.

ARTICLE 30CAPTIONS. THE CAPTIONS OR HEADINGS IN THIS ASSIGNMENT AGREEMENT ARE FOR CONVENIENCE ONLY AND IN NO WAY DEFINE OR LIMIT THE SCOPE OR INTENT OF ANY PROVISION OF THIS ASSIGNMENT AGREEMENT.

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

APPLE VALLEY PUBLIC FINANCING AUTHORITY

By: _____

Its: _____

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

By: _____

Its: Authorized Officer