

AMENDMENT NO. 1 TO
LOAN AGREEMENT

between

UNITED STATES OF AMERICA,
acting through
RURAL UTILITES SERVICE,
UNITED STATES DEPARTMENT OF AGRICULTURE,
as Lender

and

AMADOR WATER AGENCY,
as Borrower

dated as of

October 1, 2016

(LA MEL)

AMENDMENT NO. 1 TO LOAN AGREEMENT

THIS AMENDMENT NO. 1 TO LOAN AGREEMENT is dated as of October 1, 2016 between the UNITED STATES OF AMERICA, acting through RURAL UTILITIES SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE (the "Lender") and AMADOR WATER AGENCY (the "Borrower").

WHEREAS, the Corporation has previously entered into a Loan Agreement, dated March 9, 2006, with the Borrower (the "Original Agreement");

WHEREAS, the Lender and the Borrower have determined to amend the Original Agreement;

NOW, THEREFORE, the Lender and the Borrower hereby agree as follows:

Section 1. Definitions. All references to "Gross Revenues" in the Original Agreement shall be deemed to refer to "Revenues" which shall have the meaning set forth below:

"Revenues" means for any Fiscal Year or other period, all income and revenue received by the Borrower from the operation or ownership of the Water System, determined in accordance with Generally Accepted Accounting Principles, including all rates and charges (including capacity charges) received by the Borrower for the services of the Water System, investment income (to the extent generally available to pay costs with respect to the Water System) and all other money howsoever derived by the Borrower from the operation or ownership of the Water System or arising from the Water System, together with Ad Valorem Taxes, but excluding (a) refundable deposits made to establish credit and advances or contributions in aid of construction; (b) special taxes, assessments or bond proceeds relating to any assessment district or community facility district formed by the Borrower; and (c) ad valorem taxes to the extent required by law to pay any voter approved general obligation indebtedness of the Borrower; provided, however, that Revenues shall be increased by the amounts, if any, transferred during such Fiscal Year or other period from the Rate Stabilization Fund to the Revenue Fund and shall be decreased by the amount of Revenues, if any, transferred during such Fiscal Year or other period from the Revenue Fund to the Rate Stabilization Fund.

Section 2. Definitions. The definitions of "Maintenance and Operations Costs" and "Net Revenues" are hereby amended in their entirety to read as follows:

"Maintenance and Operations Costs" means, for any Fiscal Year or other period, (a) costs spent or incurred by the Borrower for maintaining and operating the Water System, calculated in accordance with Generally Accepted Accounting Principles, including (among other things) the reasonable expenses of management and repair and other expenses necessary to maintain and preserve the Water System in good repair and working order, and including administrative costs of the Borrower attributable to the Loan Repayments and other Bonds or Contracts, salaries and wages of employees, payments to employee retirement systems (to the extent paid from Revenues), overhead, insurance, taxes (if any), fees of auditors, accountants,

attorneys or engineers and insurance premiums, and including all other reasonable and necessary costs of the Borrower or charges required to be paid by it to comply with the terms of any other Bonds or Contracts, and (b) the cost of acquiring water or rights to receive water; but excluding in all cases (a) depreciation, replacement and obsolescence charges or reserves therefor; (b) amortization of intangibles or other bookkeeping entries of a similar nature; and (c) costs of capital additions, replacements, betterments, extensions or improvements to the Water System, which under Generally Accepted Accounting Principles are chargeable to a capital account or to a reserve for depreciation.

“Net Revenues” means, for any Fiscal Year or other period, Revenues for such Fiscal Year or other period less Maintenance and Operations Costs for such Fiscal Year or other period.

Section 3. Definitions. The definition of “Parity Obligations” in Section 1.1 of the Original Agreement and all references to such term are hereby removed from the Original Agreement.

Section 4. Definitions. The following definitions are added to Section 1.1 of the Original Agreement:

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

“Additional Revenues” means, with respect to the issuance of any Bonds or Contracts, an allowance for Net Revenues (i) arising from any increase in the charges made for service from the Water System adopted prior to the incurring of such Bonds or Contracts and effective within eighteen (18) months following the date of incurring such Bonds or Contracts, in an amount equal to the total amount by which the Net Revenues would have been increased if such increase in charges had been in effect during the whole of the most recent completed Fiscal Year or during any more recent twelve (12) month period selected by the Borrower, and (ii) arising from any increase in service connections to the Water System prior to the incurring of such Bonds or Contracts, in an amount equal to the total amount by which the Net Revenues would have been increased if such connections had been in existence during the whole of the most recent completed Fiscal Year or during any more recent twelve (12) month period selected by the Borrower, all as shown by the certificate or opinion of an Independent Financial Consultant.

“Bonds” means all revenue bonds or notes of the Borrower authorized, executed, issued and delivered by the Borrower, the payments of which are payable from Net Revenues on a parity with the Loan Repayments.

“Contracts” means and is limited to all contracts of the Borrower previously or hereafter authorized and executed by the Borrower, the payments of which are payable from Net Revenues on a parity with the Loan Repayments, but excluding any contracts entered into for maintenance and operation of the Water System.

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

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

(2) those portions of the principal amount of all outstanding serial Bonds maturing in such period;

(3) those portions of the principal amount of all outstanding term Bonds required to be prepaid or paid in such period; and

(4) those portions of the Contracts required to be made during such period (except to the extent the interest evidenced and represented thereby is capitalized or is reasonably anticipated to be reimbursed to the Borrower by the United States of America pursuant to Section 54AA of the Code (Section 1531 of Title I of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, 23 Stat. 115 (2009), enacted February 17, 2009)), or any future similar program);

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

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

- (i) the then current variable interest rate borne by such Bonds or Contracts plus 1%, and
- (ii) if such Bonds or Contracts have been outstanding for at least twelve months, the average rate over the twelve months immediately preceding the date of calculation, or if such Bonds or Contracts have not been outstanding for the twelve prior months, the average rate borne by reference to an index comparable to that to be utilized in determining the interest rate for the Bonds to be issued or the Contracts to be executed;

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

provided further that, as to any such Bonds or Contracts or portions thereof bearing no interest but which are sold at a discount and which discount accretes with respect to such Bonds or Contracts or portions thereof, such accreted discount shall be treated as interest in the calculation of Debt Service; and

provided further that if the Bonds or Contracts constitute paired obligations, the interest rate on such Bonds or Contracts shall be the resulting linked rate or the effective fixed interest rate to be paid by the Borrower with respect to such paired obligations; and

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

“Fiscal Year” means the twelve month period beginning on July 1 of each year and ending on June 30 of the following year, both dates inclusive, or any other twelve month period hereafter selected and designated as the official fiscal year period of the Borrower.

“Generally Accepted Accounting Principles” means the uniform accounting and reporting procedures prescribed by the California State Controller or his successor for public agencies in the State of California, or failing the prescription of such procedures means generally accepted accounting principles as presented and recommended by the American Institute of Certified Public Accountants or its successor, or by the National Council on Governmental Accounting or its successor, or by any other generally accepted authority on such principles.

“Independent Certified Public Accountant” means any certified public accountant or firm of certified public accountants duly licensed and entitled to practice, and practicing as such, under the laws of the State of California, appointed and paid by the Borrower, and each of whom- (1) is in fact independent and not under the domination of the Borrower; (2) does not have a substantial financial interest, direct or indirect, in the operations of the Borrower; and (3) is not connected with the Borrower as a board member, officer or employee of the Borrower, but may be regularly retained to audit the accounting records of and make reports thereon to the Borrower.

“Independent Financial Consultant” means any financial consultant or firm of such consultants of national reputation generally recognized to be well qualified in financial matters relating to systems similar to the Water System, appointed and paid by the Borrower, and who, or each of whom: (1) is in fact independent and not under domination of the Borrower; (2) does not have any substantial interest, direct or indirect, with the Borrower; and (3) is not connected with the Borrower as a member of the Board of Directors, an officer or an employee thereof, but who may be regularly retained to make reports thereto.

“Rate Stabilization Fund” means the Borrower account designated by the Borrower as account number _____, together with other accounts created in the future and designated by action of the Board of Directors as a part of the Rate Stabilization Fund.

“Revenue Fund” means those Borrower accounts designated by the Borrower as account numbers _____ and _____, together with other accounts created in the future and designated by action of the Board of Directors as a part of the Revenue Fund.

“Water Service” means the water distribution service made available or provided by the Water System.

“Water System” means (a) all property rights, contractual rights and facilities of the Borrower relating to water, including all facilities for the treatment, conservation, storage, transmission and distribution of water now owned by the Borrower and all other properties, structures or works for the treatment, conservation, storage, transmission and distribution of water and the generation and delivery of hydroelectric power in connection therewith hereafter acquired and constructed by or for the Borrower, and (b) all property rights, contractual rights and facilities of the Borrower relating to reclaimed water, including all facilities for the transporting, treating, neutralizing, stabilizing or disposing of reclaimed water now owned by the Borrower and all other properties, structures or works for the transporting, treating, neutralizing, stabilizing or disposing of reclaimed hereafter acquired and constructed by or for the Borrower; together with all additions, betterments, extensions or improvements to such facilities, properties, structures or works or any part thereof hereafter acquired and constructed by or for the Borrower; provided, however, that the Water System shall not include any property rights, contractual rights or facilities for the collection, conveyance, treatment or disposal of wastewater.

Section 5. Amendment to Section 3.7 of the Original Agreement. Section 3.7 of the Original Agreement is hereby amended in its entirety to read as follows:

(a) All of the Revenues, all amounts held in the Revenue Fund described in subsection (b) below, the Rate Stabilization Fund and any other amounts held in any fund or account established with respect to the Loan Repayments are hereby irrevocably pledged to secure the payment of the Loan Repayments, subject however to the pledge thereon securing Bonds and Contracts, and the Revenues shall not be used for any other purpose while the Loan Repayments remain unpaid, except as expressly provided in Section 3.7(b) herein. Said pledge, together with the pledge created for the benefit of other Bonds and Contracts, shall constitute a first lien on and security interest on Revenues and, subject to application of Revenues and all amounts on deposit in the Revenue Fund and the Rate Stabilization Fund as permitted herein, the Revenue Fund, the Rate Stabilization Fund and other funds and accounts created hereunder for the payment of the Loan Repayments, and shall attach, be perfected and be valid and binding from the date hereof, without any physical delivery thereof or further act and shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the Borrower, irrespective of whether such parties have notice hereof.

(b) The Borrower covenants and agrees that all Revenues, when and as received, will be received and held by the Borrower and will be deposited by the Borrower in the Revenue Fund and will be accounted for and held in trust for the benefit of the Loan Repayments and for payments with respect to Bonds and Contracts in the Revenue Fund. All Revenues shall be disbursed, allocated and applied solely to the uses and purposes set forth in this Section 3.7. Additionally, amounts may, from time to time as the Borrower deems necessary or appropriate, be transferred from the Rate Stabilization Fund and deposited in the Revenue Fund.

All Revenues in the Revenue Fund shall be set aside by the Borrower as follows and in the following order of priority:

(i) Maintenance and Operations Costs. In order to carry out and effectuate the pledge and lien contained herein, the Borrower agrees and covenants to pay all Maintenance and Operations Costs (including amounts reasonably required to be set aside in contingency reserves for Maintenance and Operations Costs, the payment of which is not then immediately required) from the Revenue Fund as they become due and payable.

(ii) Debt Service Funds. Payment of the Loan Repayments and principal and interest with respect to Bonds or Contracts shall be paid in accordance with the terms hereof and of such Bonds or Contracts, without preference or priority, and in the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(iii) Reserve Funds. Payments to replenish debt service reserve funds established for Bonds or Contracts of the Borrower shall be made in accordance with the terms of such Bonds or Contracts, without preference or priority, and in the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(iv) General Expenditures/Rate Stabilization Fund. All Revenues not required to be withdrawn pursuant to the provisions (i) through (iii) above shall be used for expenditure for any lawful purpose of the Borrower. From time to time the Borrower may deposit in the Rate Stabilization Fund, from remaining Net Revenues described in this subsection (iv) or other available funds of the Borrower, such amounts as the Borrower shall determine. The Borrower may withdraw amounts from the Rate Stabilization Fund (i) for transfer to the Revenue Fund for inclusion in Revenues for any Fiscal Year, or (ii) for any other lawful use of the Borrower. All interest or other earnings upon deposits in the Rate Stabilization Fund shall be withdrawn therefrom and accounted for as Revenues.

Section 6. Amendment to Section 4.5 of the Original Agreement. Section 4.5 of the Original Agreement is hereby amended in its entirety to read as follows:

(a) To the fullest extent permitted by law, the Borrower will fix and prescribe rates and charges for the Water Service which are reasonably expected to be at least sufficient to yield during each Fiscal Year Net Revenues equal to 125% of Debt Service on Bonds and Contracts for such Fiscal Year. The Borrower may make adjustments from time to time in such rates and charges and may make such classifications thereof as it deems necessary, but shall not reduce the rates and charges then in effect unless the Net Revenues from such reduced rates and charges are reasonably expected to be sufficient to meet the requirements of this Section.

(b) So long as the Borrower has complied with its obligations set forth in subsection (a) above, the failure of Net Revenues to meet the threshold set forth in Section 4.5(a) above at the end of a Fiscal Year shall not constitute a default hereunder so long as the Borrower has complied with Section 4.5(a) at the commencement of the succeeding Fiscal Year.

Section 7. Amendment to Section 4.6 of the Original Agreement. Section 4.6 of the Original Agreement is hereby amended in its entirety to read as follows:

The Borrower will not make any pledge of or place any lien on Revenues or the moneys in the Revenue Fund except as provided herein. The Borrower may at any time, or from time to time, issue evidences of indebtedness or incur other obligations for any lawful purpose which are payable from and secured by a pledge of an lien on Revenues or any moneys in the Revenue Fund as may be from time to time be, deposited therein, in accordance with Section 4.7.

Section 8. Addition of Section 4.7 of the Original Agreement. Section 4.7 is hereby amended in its entirety to read as follows:

(a) The Borrower shall not issue or incur any obligations payable from Net Revenues, or secured by a lien of Revenues, senior or superior to the Loan Repayments. The Borrower may at any time execute any Contract or issue any Bonds, as the case may be, payable from Net Revenues and secured by a lien of Revenues on a parity with Loan Repayments to provide financing for the Water System in such principal amount as shall be determined by the Borrower. The Borrower may issue or incur any such Bonds or Contracts subject to the following specific conditions which are hereby made conditions precedent to the issuance and delivery of such Bonds or Contracts:

(i) No event of default shall have occurred and be continuing with respect to the Loan Repayments, unless such event of default shall be cured upon the execution or issuance of such additional Contract or Bond; and

(ii) The Borrower obtains or provides a certificate prepared by an Independent Certified Public Accountant or Independent Financial Advisor showing that the Net Revenues as shown by the books of the Borrower for any 12 consecutive calendar months during the 18 calendar month period ending prior to the incurring of such Bonds or Contracts shall have amounted to at least 125% of the Debt Service for all Bonds or Contracts to be outstanding immediately after incurring such additional Bonds or Contracts including Debt Service which would have been payable on any Bonds or Contracts incurred since the end of such 12 month period assuming such Bonds or Contracts had been incurred at the beginning of such twelve month period, and Debt Service which would have been payable had the Bonds or Contracts being incurred been incurred at the beginning of such 12 month period.

For purposes of preparing the certificate described in subsection (ii), as set forth above, the Independent Certified Public Accountant or Independent Financial Advisor may rely upon financial statements prepared by the Borrower, which have not been subject to audit by an independent certified public accountant if audited financial statements for the Fiscal Year or period are not available. For purposes of demonstrating compliance with the foregoing, Net Revenues may be adjusted (at the option of the Borrower) to include the Additional Revenues.

The certificate described in subsection (ii), as set forth above, shall not be required if (x) the Bonds or Contracts being incurred are for the exclusive purpose of refunding then outstanding Bonds or Contracts, (y) at the time of the incurring of such Bonds or Contracts, a certificate of an authorized representative of the Borrower shall be delivered showing that Debt Service on the refunding Bonds or Contracts will not exceed by more than 10% Debt Service on the refunded Bonds or Contracts in each Fiscal Year, and (z) the final maturity of the refunding Bonds or Contracts is not later than the final maturity of the refunded Bonds or Contracts.

(b) The Borrower may at any time incur obligations payable from Net Revenues subordinate to Loan Repayments.

Section 9. GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CALIFORNIA.

Section 10. Counterparts. This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

This Agreement shall become effective when each party hereto shall have received a counterpart hereof duly executed by the other party hereto.

Section 11. Integration. This Agreement is intended to be the final agreement between the parties hereto relating to the subject matter hereof and this Agreement and any agreement, document or instrument attached hereto or referenced to herein shall supersede all other negotiations and prior writings with respect to the subject matter hereof.

Section 12. Remainder of Original Agreement Unchanged. Except as expressly amended pursuant to this Agreement, the Original Agreement, and each and every provision thereof, shall remain in full force and effect.

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

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

By _____
[Title]

AMADOR WATER AGENCY

By _____
President

By _____
Clerk