

## **FIRST AMENDMENT TO INSTALLMENT SALE AGREEMENT**

This First Amendment to Installment Sale Agreement (this "First Amendment"), dated as of August 1, 2020, is by and between the SONOMA COUNTY WATER AND WASTEWATER FINANCING AUTHORITY, as seller (the "Authority"), and the FORESTVILLE WATER DISTRICT (the "District"), as successor to the Forestville County Sanitation District ("FCSD"), as purchaser;

**WHEREAS**, the Authority and the FCSD entered into an Installment Sale Agreement dated as of October 1, 2001 (the "Original Installment Sale Agreement"), whereby the Authority agreed to sell the Wastewater System, as improved by the Project, to FCSD and the FCSD agreed to purchase the Wastewater System from the Authority and to make Installment Payments therefor (as those terms are defined in the Original Installment Sale Agreement).

**WHEREAS**, the Installment Payments secure the payment of debt service on Certificates of Participation (the "2001 Certificates") executed and delivered under a Trust Agreement dated as of October 1, 2001, among FCSD, the Authority and the County Treasurer of the County of Sonoma, as trustee.

**WHEREAS**, the 2001 Certificates were purchased and are currently held by the United States Department of Agriculture, Rural Utilities Service ("USDA-RUS").

**WHEREAS**, through a reorganization completed in 2004, FCSD was dissolved and the District was designated as the successor-in-interest to FCSD.

**WHEREAS**, the County Treasurer of the County of Sonoma has resigned as trustee with respect to the 2001 Certificates, and the role of trustee has been assumed by the General Manager of the District (the "Trustee").

**WHEREAS**, the District now desires to enter into an installment sale agreement with the California State Water Resources Control Board (the "State Water Board") evidencing a loan to be made by the State Water Board to the District in a maximum principal amount of \$752,083 (the "State Loan"), which are intended to be payable on a parity with the Installment Payments under the Original Installment Sale Agreement.

**WHEREAS**, in order to enter into the State Loan, the District desires to amend the Original Installment Sale Agreement to permit the incurrence of additional parity obligations.

**WHEREAS**, the District and the Authority will enter into this First Amendment with the prior written consent of the USDA-RUS.

**NOW, THEREFORE**, for and in consideration of the premises and the material covenants hereinafter contained, the District and the Authority hereby agree as follows:

SECTION 1. *Amendment of Section 4.03 of Original Installment Sale Agreement.* Section 4.03 of the Original Installment Sale Agreement is hereby amended and restated as follows:

Section 4.03. Against Encumbrances; Parity Obligations.

(a) The District will pay or cause to be paid when due all sums of money that may become due or purporting to be due for any labor, services, materials, supplies or equipment furnished, or alleged to have been furnished, to or for the District in, upon, about or relating to the Wastewater System and will keep the Wastewater System free of any and all liens against any portion of the Wastewater System. In the event any such lien attaches to or is filed against any portion of the Wastewater System, the District 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 District desires to contest any such lien it may do so. If any such lien shall be reduced to final judgment and such judgment or any process as may be issued for the enforcement thereof is not promptly stayed, or if so stayed and such stay thereafter expires, the District will forthwith pay or cause to be paid and discharged such judgment. The District will, to the maximum extent permitted by law, indemnify and hold the Authority and the Trustee harmless from, and defend each of them against, any claim, demand, loss, damage, liability or expense (including attorneys' fees) as a result of any such lien or claim of lien against any portion of the Wastewater System.

(b) The District may issue or incur other indebtedness or other obligations (including leases and installment sale agreements) secured by a pledge of and lien on Net Wastewater Revenues equally and ratably with the Installment Payments ("Parity Obligations") if all of the following conditions are met:

(i) The prior written consent of Owners representing at least 75% of the then-outstanding principal amount of the Certificates must be obtained, which may not be unreasonably withheld.

(ii) The District may not be in default under the terms of this Installment Sale Agreement.

(iii) Net Wastewater Revenues, calculated on sound accounting principles, as shown by the books of the District for the latest Fiscal Year or any more recent 12-month period selected by the District ending not more than 60 days prior to the adoption of the resolution pursuant to which instrument such Parity Obligations are issued or incurred, as shown by the books of the District, plus the estimated amount of the increase in the Net Wastewater Revenues for the first full 12-month period in which the proposed additions to or improvements or extensions of the Wastewater System to be funded by such Parity Debt will be in operation, as shown in a written certificate of the District, equals at least 1.20 times the sum of the average annual Installment Payments, average annual debt service on all outstanding Parity Obligations outstanding at the time the additional parity obligations are issued or incurred, and average annual debt service on all additional parity obligations proposed to be issued or incurred. Either or both of the following items may be added to such Net Wastewater Revenues for the purpose of applying the restriction contained in this subsection (b)(iii):

(A) an allowance for revenues from any additions to or improvements or extensions of the Wastewater System to be constructed with the proceeds of such Parity Obligations, and also for Net Wastewater Revenues from any such additions, improvements or extensions which have been constructed from moneys from any source but which, during all or any part of such Fiscal Year, were not in service, all in an amount equal

to 70% of the estimated additional average annual Net Wastewater Revenues to be derived from such additions, improvements and extensions for the first 36-month period following closing of the proposed Parity Obligations, all as shown by the certificates or opinion of a qualified independent consultant employed by the District, and

(B) an allowance for earnings arising from any increase in the charges made for service from the Wastewater System that has become effective prior to the incurring of such Parity Obligations but which, during all or any part of such Fiscal Year, was not in effect, in an amount equal to 100% of the amount by which the Net Wastewater Revenues would have been increased if such increase in charges had been in effect during the whole of such Fiscal Year and any period prior to the incurring of such Parity Obligations, as shown by the certificates or opinion of a qualified independent engineer employed by the District.

(c) The District may pledge, encumber or otherwise secure its obligations with the Net Wastewater Revenues, without complying with the conditions set forth in paragraph (b) above, provided that in all instances any such pledge, lien or security is wholly subordinate and junior to the obligations of the District contained herein, particularly Section 3.02; provided, however, that so long as the Certificates are registered to the United States of America, the prior written consent of USDA RUS, or its successor agency, must be obtained.

SECTION 2. *Amendment of Section 7.12 of Original Installment Sale Agreement.* Section 7.12 of the Original Installment Sale Agreement is hereby amended and restated as follows:

Section 7.12. Notices. All written notices to be given hereunder shall be given by mail to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other party in writing from time to time, namely:

If to the District:

Forestville Water District  
6530 Mirabel Road  
Forestville, California 95436  
Attention: General Manager

If to the Authority:

Sonoma County Water and Wastewater Financing Authority  
404 Aviation Boulevard  
Santa Rosa, CA 95403  
Attention: Treasurer

If to the Trustee:

Forestville Water District  
6530 Mirabel Road  
Forestville, California 95436  
Attention: General Manager

SECTION 3. *Definitions.* All capitalized terms used but not defined herein have the definitions set forth in the Original Installment Sale Agreement.

SECTION 4. *Binding Effect.* This First Amendment shall inure to the benefit of and shall be binding upon the Authority, the District and the Trustee, and their respective successors and assigns, including without limitation USDA-RUS.

SECTION 5. Except as specifically amended by this First Amendment, all other provisions of the Original Installment Sale Agreement shall remain in full force and effect.

SECTION 7. *Execution of Counterparts.* This First Amendment may be executed in any number of counterparts, each of which shall for all purposes be deemed to be an original and all of which shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the District and the Authority have caused this First Amendment to be executed in their respective names by their duly authorized officers, all as of the date first above written.

**SONOMA COUNTY WATER AND  
WASTEWATER FINANCING AUTHORITY,**  
as seller

By: \_\_\_\_\_  
\_\_\_\_\_,  
\_\_\_\_\_

**FORESTVILLE WATER DISTRICT,**  
as purchaser

By: \_\_\_\_\_  
\_\_\_\_\_  
General Manager

**CONSENTED TO:**

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

By: \_\_\_\_\_  
Authorized Officer