

**TRANSFER AGREEMENT BETWEEN  
THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT AND  
CALABASAS  
AGREEMENT NO. 2024MP13  
SAFE, CLEAN WATER PROGRAM – MUNICIPAL PROGRAM**

This Transfer Agreement, hereinafter referred to as "Agreement," is entered into as of \_\_\_\_\_ by and between the Los Angeles County Flood Control District, hereinafter referred to as "District," and Calabasas, hereinafter referred to as "Municipality."

**WHEREAS**, District, pursuant to the Los Angeles Region Safe, Clean Water (SCW) Program ordinance (Chapter 16 of the Los Angeles County Flood Control District Code) and the SCW Program Implementation Ordinance (Chapter 18 of the Los Angeles County Flood Control District Code), administers the SCW Program for the purpose of funding Projects and Programs to increase stormwater and urban runoff capture and reduce stormwater and urban runoff pollution in the District;

**WHEREAS**, pursuant to Section 16.04.A.2. of the Los Angeles County Flood Control District Code, forty percent (40%) of annual SCW Program tax revenues shall be allocated to Municipalities within the District, in the same proportion as the amount of revenues collected within each Municipality, to be expended by those cities within the cities' respective jurisdictions and by the County within the unincorporated areas that are within the boundaries of the District, for the implementation, operation and maintenance, and administration of Projects and Programs, in accordance with the criteria and procedures established in this Chapters 16 and 18 of the Los Angeles County Flood Control District Code;

**WHEREAS**, pursuant to Section 16.05.A.1. of the Los Angeles County Flood Control District Code, prior to their receipt of SCW Program funds, Municipalities must enter into an agreement with the District to transfer SCW Program funds;

**WHEREAS**, the County of Los Angeles Board of Supervisors has approved a standard template Agreement, as required by and in accordance with Section 18.09 of the Los Angeles County Flood Control District Code, for the transfer of SCW Program funds to Municipalities.

**NOW, THEREFORE**, in consideration of the promises, mutual representations, covenants and agreements in this Agreement, the District and the Municipality, each binding itself, its successors and assigns, do mutually promise, covenant, and agree as follows:

**I. DEFINITIONS**

The definitions set forth in Sections 16.03 and 18.02 of the Los Angeles County Flood Control District Code shall apply to this Agreement. In addition, the following definitions shall also apply:

"Agreement" means this Transfer Agreement, including all exhibits and attachments hereto.

"Annual Plan" means the plan referred to in Section 18.09.B.5 of the Code that includes the contents specified in Exhibit A.

"Code" means the Los Angeles County Flood Control District Code. "Days" means calendar days unless otherwise expressly indicated.

"Fiscal Year" means the period of twelve (12) months terminating on June 30 of any year.

"Safe Clean Water (SCW) Program Payment" means the Municipality's annual allocation of SCW Program funds as described in Section 16.04.A.2. of the Code disbursed by the District to the Municipality.

"Year" means calendar year unless otherwise expressly indicated.

**II. PARTY CONTACTS**

The District and the Municipality designate the following individuals as the primary points of contact and communication regarding the Municipal Program and the administration and implementation of this Agreement.

Los Angeles County Flood Control District	Municipality: Calabasas
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Name:	Haris Harouny	Name:	
Address:	900 S Fremont Ave, Alhambra, CA 91803	Address:	
Phone:	(626) 300-2620	Phone:	
Email:	hharouny@dpw.lacounty.gov	Email:	

Either party to this Agreement may change the individual identified as the primary point of contact above by providing written notice of the change to the other party.

**III. EXHIBITS INCORPORATED BY REFERENCE**

The following exhibits to this Agreement, including any amendments and supplements hereto, are hereby incorporated herein and made a part of this Agreement:

EXHIBIT A – ANNUAL PLAN CONTENTS

EXHIBIT B – GENERAL TERMS AND CONDITIONS

EXHIBIT C – NATURE-BASED SOLUTIONS (Best Management Practices)

EXHIBIT D – OPERATIONS AND MAINTENANCE GUIDANCE DOCUMENT

**IV. MUNICIPAL PROGRAM IMPLEMENTATION**

- A. The Municipality shall annually prepare and submit to the District, an Annual Plan. The Annual Plan shall be submitted not later than 90-days prior to the start of the Fiscal Year for which the Plan is prepared.
- B. The Municipality shall utilize the SCW Program Payments in compliance with Chapters 16 and 18 of the Code.
- C. The Municipality shall comply with the terms and conditions in Exhibits B, C, and D, of this Agreement, and all applicable provisions of Chapters 16 and 18 of the Code, specifically including, without limitation, Section 18.06.

**V. SCW PROGRAM PAYMENTS TO MUNICIPALITIES**

- A. SCW Program Payments will generally be available for disbursement by December 31, provided a duly executed transfer agreement is in effect and subject to the Municipality's compliance with the conditions described in paragraph B, below; however the District may, in its discretion, change the date and number of the actual disbursements for any Fiscal Year based on the amount and timing of revenues actually collected by the District.
- B. The District shall disburse the Municipality's SCW Program Payment upon satisfaction of the following conditions: (1) the District has received the Annual Progress/Expenditure Report required pursuant to Section 18.06.D of the Code; (2) the District has received Municipality's Annual Plan for that Fiscal Year, and (3) the Municipality has complied with the audit requirements of Section B-6 of Exhibit B.
- C. Notwithstanding any other provision of this Agreement, no disbursement shall be made at any time or in any manner that is in violation of or in conflict with federal, state, County laws, policies, or regulations.
- D. All disbursements shall be subject to and be made in accordance with the terms and conditions in this Agreement and Chapters 16 and 18 of the Code.

**VI. Term of Agreement**

This Agreement shall expire at the end of the 2027-28 Fiscal Year. The parties shall thereafter enter into a new agreement based on the most recent standard template agreement approved by the Board.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

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

Name:

Title:

Date: \_\_\_\_\_

LOS ANGELES COUNTY FLOOD  
CONTROL DISTRICT:

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

Name:

Title:

Date: \_\_\_\_\_

## EXHIBIT A – ANNUAL PLAN CONTENTS

- A-1. Description of all projects anticipated to be funded using the SCW Program Payment. Include a discussion of how the projects will result in the achievement of one or more SCW Program Goals, including quantitative targets and corresponding metrics for subsequent reporting of all applicable parameters.
- A-2. Description of all programs anticipated to be funded using the SCW Program Payment. Include a discussion of how the programs will result in the achievement of one or more SCW Program Goals; including quantitative targets and corresponding metrics for subsequent reporting of all applicable parameters.
- A-3. Description of all operation and maintenance activities anticipated to be funded using the SCW Program Payment. Include a discussion of how those activities will result in the achievement of one or more SCW Program Goals. Additional operation and maintenance activities, even if funded by other sources, should be referenced to provide an overview of anticipated overall project approach.
- A-4. Description of the stakeholder and community outreach/engagement activities anticipated to be funded with the SCW Program Payment, including discussion of how local NGOs or CBOs will be involved, if applicable, and if not, why. Additional outreach/engagement activities, even if funded by other sources, should be referenced to provide an overview of anticipated overall project approach.
- A-5. Description of post-construction monitoring for projects completed using the SCW Program Payment. Additional post-construction monitoring activities, even if funded by other sources, should be referenced to provide an overview of anticipated overall project approach.
- A-6. Provide the status of any projects that have been awarded (or are seeking award of) Institute for Sustainable Infrastructure (ISI) verification, if applicable.
- A-7. Provide the budget for the activities described in provisions A1 through A-5 SCW Program Payment.

## EXHIBIT B – GENERAL TERMS AND CONDITIONS

### B-1. Accounting and Deposit of Funding Disbursement

1. SCW Program Payments distributed to the Municipality shall be held in a separate interest-bearing account and shall not be combined with other funds. Interest earned from each account shall be used by the Municipality only for eligible expenditures consistent with the requirements of the SCW Program.
2. The Municipality shall not be entitled to interest earned on undisbursed SCW Program Payments; interest earned prior to disbursement is property of the District.
3. The Municipality shall operate in accordance with Generally Accepted Accounting Principles (GAAP).
4. The Municipality shall be strictly accountable for all funds, receipts, and disbursements for their SCW Program Payment.

### B-2. Acknowledgement of Credit and Signage

The Municipality shall include appropriate acknowledgement of credit to the District's Safe, Clean Water Program for its support when promoting activities funded with SCW Program funds or using any data and/or information developed SCW Program funds. When the SCW Program Payment is used, in whole or in part, for construction of an infrastructure Project, signage shall be posted in a prominent location at Project site(s) or at the Municipality's headquarters and shall include the Safe, Clean Water Program color logo and the following disclosure statement: "Funding for this project has been provided in full or in part from the Los Angeles County Flood Control District's Safe, Clean Water Program." At a minimum the sign shall be 2' x 3' in size. The Municipality shall also include in each of its contracts for work under this Agreement a provision that incorporates the requirements stated within this paragraph.

When the SCW Program Payment is used, in whole or in part, for a scientific study, the Municipality shall include the following statement in the study report: "Funding for this study has been provided in full or in part from the Los Angeles County Flood Control District's Safe, Clean Water Program." The Municipality shall also include in each of its contracts for work under this Agreement a provision that incorporates the requirements stated within this paragraph.

### B-3. Acquisition of Real Property - Covenant

Any real property acquired in whole or in part with SCW Program funds shall be used for Projects and Programs that are consistent with the SCW Program Goals and with the provisions of Chapter 16 and 18 of the Code.

Any Municipality that acquires the fee title to real property using, in whole or in part, SCW Program funds shall record a document in the office of the Registrar-Recorder/County

Clerk containing a covenant not to sell or otherwise convey the real property without the prior express written consent of the District, which consent shall not be unreasonably withheld.

### B-4. Amendment

Except as provided in Section II of the Agreement, no amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties. No oral or written understanding or agreement not incorporated in this Agreement is binding on any of the parties.

### B-5. Assignment

The Municipality shall not assign this Agreement.

### B-6. Audit and Recordkeeping

1. The Municipality shall retain for a period of seven (7) years, all records necessary in accordance with Generally Accepted Accounting Principles to determine the amounts expended, and eligibility of Projects implemented using SCW Program Payments. The Municipality, upon demand by authorized representatives of the District, shall make such records available for examination and review or audit by the District or its authorized representatives. Records shall

include accounting records, written policies and procedures, contract files, original estimates, correspondence, change order files, including documentation covering negotiated settlements, invoices, and any other supporting evidence deemed necessary to substantiate charges related to SCW Program Payments and expenditures.

2. The Municipality is responsible for obtaining an independent audit to determine compliance with the terms and conditions of this Agreement and all requirements applicable to the Municipality contained in chapters 16 and 18 of the Code. Municipality shall obtain an independent audit of their SCW Program Payments every three (3) years. Audits shall be funded with Municipal Program funds.
3. Municipality shall file a copy of all audit reports by the ninth (9<sup>th</sup>) month from the end of each three (3) year period to detail the preceding three (3) years of expenditures. Audit reports shall be posted on the District's publicly accessible website. Due date example below.

Every Third Fiscal Year		
Fiscal Year	Audit Begins	Audit Report Due to District
2023-24	7/1/2027	No later than 3/31/2028

4. Upon reasonable advanced request, the Municipality shall permit the Chief Engineer to examine the infrastructure Projects using SCW Program Payments. The Municipality shall permit the authorized District representative, including the Auditor-Controller, to examine, review, audit, and transcribe any and all audit reports, other reports, books, accounts, papers, maps, and other records that relate to the SCW Program Payments. Examination activities are considered District administration of the SCW Program.
5. Expenditures determined by an audit to be in violation of any provision of Chapters 16 or 18 of the Code, or of this Agreement, shall be subject to the enforcement and remedy provisions of Section 18.14 of the Code.

**B-7. Availability of Funds**

District's obligation to disburse the SCW Program Payment is contingent upon the availability of sufficient funds to permit the disbursements provided for herein. If sufficient funds are not available for any reason including, but not limited to, failure to fund allocations necessary for disbursement of the SCW Program Payment, the District shall not be obligated to make any disbursements to the Municipality under this Agreement. This provision shall be construed as a condition precedent to the obligation of the District to make any disbursements under this Agreement. Nothing in this Agreement shall be construed to provide the Municipality with a right of priority for disbursement over any other Municipality. If any disbursements due to the Municipality under this Agreement are deferred because sufficient funds are unavailable, it is the intention of the District that such disbursement will be made to the Municipality when sufficient funds do become available, but this intention is not binding. If this Agreement's funding for any Fiscal Year is reduced or deleted by order of the Board, the District shall have the option to either cancel this Agreement with no liability occurring to the District or offer an amendment to the Municipality to reflect the reduced amount.

**B-8. Choice of Law**

The laws of the State of California govern this Agreement.

**B-9. Claims**

Any claim of the Municipality is limited to the rights, remedies, and claims procedures provided to the Municipality under this Agreement. Municipal expenditures of a SCW Program Payment that involves the District shall utilize a separate and specific agreement to that Project that includes appropriate indemnification superseding that in this Agreement.

**B-10. Compliance with SCW Program**

The Municipality shall comply with and require its contractors and subcontractors to comply with all provisions of Chapters 16 and 18 of the Code.

**B-11. Compliance with Law, Regulations, etc.**

The Municipality shall, at all times, comply with and require its contractors and subcontractors to comply

with all applicable local, state and federal laws, rules, guidelines, regulations, and requirements.

B-12. Continuous Use of Municipal Projects; Lease or Disposal of Municipal Projects

The Municipality shall not abandon, substantially discontinue use of, lease, or dispose of all or a significant part or portion of any Project funded in whole or in part with SCW Program Payments during the useful life (defined as 30 years unless specified otherwise in annual plans and subsequent reports) of the Project without prior written approval of the District. Such approval may be conditioned as determined to be appropriate by the District, including a condition requiring repayment of a pro rata amount of the SCW Program Payments used to fund the Project together with interest on said amount accruing from the date of lease or disposal of the Project.

B-13. Disputes

Should a dispute arise between the parties, the party asserting the dispute will notify the other parties in writing of the dispute. The parties will then meet and confer within 21 calendar days of the notice in a good faith attempt to resolve the dispute.

If the matter has not been resolved through the process set forth in the preceding paragraph, any party may initiate mediation of the dispute. Mediation will be before a retired judge or mediation service mutually agreeable to the parties. All costs of the mediation, including mediator fees, will be paid one-half by the District and one-half by the Municipality. SCW Program Payments shall not be used to pay for any costs of the mediation.

The parties will attempt to resolve any dispute through the process set forth above before filing any action relating to the dispute in any court of law.

B-14. Final Inspection and Certification of Registered Professional

Upon completion of the design phase and before construction of a project, the Municipality shall provide certification by a California Registered Professional (i.e., Professional Civil Engineer, Engineering Geologist) that the design has been completed.

Upon completion of the project, the Municipality shall provide for a final inspection and certification by a California Registered Professional (i.e., Professional Civil Engineer, Engineering Geologist), that the Project has been completed in accordance with submitted final plans and specifications and any modifications thereto and in accordance with this Agreement.

B-15. Force Majeure.

In the event that Municipality is delayed or hindered from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure materials not related to the price thereof, riots, insurrection, war, or other reasons of a like nature beyond the control of the Municipality, then performance of such acts shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

B-16. Funding Considerations and Exclusions

1. All expenditures of SCW Program Payments by Municipality must comply with the provisions of Chapters 16 and 18 of the Los Angeles County Flood Control District Code, including but not limited to the provisions regarding eligible expenditures contained in Section 16.05.A.2 and the provision regarding ineligible expenditures contained in Section 16.05.A.3.
2. SCW Program Payments shall not be used in connection with any Project implemented as an Enhanced Compliance Action ("ECA") and/or Supplemental Environmental Project ("SEP") as defined by State Water Resources Control Board Office of Enforcement written policies, or any other Project implemented pursuant to the settlement of an enforcement action or to offset monetary penalties imposed by the State Water Resources Control Board, a Regional Water Quality Control Board, or any other regulatory authority; provided, however, that SCW funds may be used for a Project implemented pursuant to a time schedule order ("TSO") issued by the Los Angeles Regional Water Quality Control Board if, at the time the TSO was issued, the Project was included in an approved watershed management program (including enhanced watershed management programs) developed pursuant to the MS4 Permit.

B-17. Indemnification

The Municipality shall indemnify, defend and hold harmless the District, the County of Los Angeles and their elected and appointed officials, agents, and employees from and against any and all liability and expense, including defense costs, legal fees, claims, actions, and causes of action for damages of any nature whatsoever, including but not limited to bodily injury, death, personal injury, or property damage, arising from or in conjunction with: (1) any Project or Program implemented by the Municipality, in whole or in part, with SCW Program Payments or (2) any breach of this Agreement by the Municipality.

B-18. Independent Actor

The Municipality, and its agents and employees, if any, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees, or agents of the District.

The Municipality shall not contract work with a contractor who is in a period of debarment from any agency within the District. (LACC Chapter 2.202)

B-19. Integration

This is an integrated Agreement. This Agreement is intended to be a full and complete statement of the terms of the agreement between the District and Municipality, and expressly supersedes any and all prior oral or written agreements, covenants, representations and warranties, express or implied, concerning the subject matter of this Agreement.

B-20. Lapsed Funds

1. The Municipality shall be able to carry over uncommitted SCW Program Payments for up to five (5) years from the end of the fiscal year in which those funds are transferred from the District to the Municipality.
2. If the Municipality is unable to expend the SCW Program Payment within five (5) years from the end of the fiscal year in which those funds are transferred from the District to the Municipality, then lapsed funding procedures will apply. Lapsed funds are funds that were transferred to the Municipality but were not committed to eligible expenditures by the end of the fifth (5<sup>th</sup>) fiscal year after the fiscal year in which those funds were transferred from the District.
3. Lapsed funds shall be allocated by the Watershed Area Steering Committee of the respective Watershed Area to a new Project with benefit to that Municipality, if feasible in a reasonable time frame, or otherwise to the Watershed Area.
4. In the event that funds are to lapse, due to circumstances beyond the Municipality's control, then the Municipality may request an extension of up to twelve (12) months in which to commit the funds to eligible expenditures. Extension Requests must contain sufficient justification and be submitted to the District in writing no later than three (3) months before the funds are to lapse.
5. The decision to grant an extension is at the sole discretion of the District.
6. Funds still uncommitted to eligible expenditures after an extension is granted will be subject to lapsed funding procedures without exception.

<b><u>Fiscal Year Transferred</u></b>	<b><u>Funds Lapse After</u></b>	<b><u>Extension Request Due</u></b>	<b><u>Commit By</u></b>
2019-20	6/30/2025	No later than 3/31/2025	No later than 6/30/2026

B-21. Municipal Project Access

Upon reasonable advance request, the Municipality shall ensure that the District or any authorized representative, will have safe and suitable access to the site of any Project implemented by the Municipality in whole or in part with SCW Program Payments at all reasonable times.

B-22. Non-Discrimination

The Municipality agrees to abide by all federal, state, and County laws, regulations, and policies



regarding non-discrimination in employment and equal employment opportunity.

**B-23. No Third-Party Rights**

The parties to this Agreement do not create rights in, or grant remedies to, any third party as a beneficiary of this Agreement, or of any duty, covenant, obligation, or undertaking established herein

**B-24. Notice**

1. The Municipality shall notify the District in writing within five (5) working days of the occurrence of the following:
  - a. Bankruptcy, insolvency, receivership or similar event of the Municipality; or
  - b. Actions taken pursuant to State law in anticipation of filing for bankruptcy.
2. The Municipality shall notify the District within ten (10) working days of any litigation pending or threatened against the Municipality regarding its continued existence, consideration of dissolution, or reincorporation.
3. The Municipality shall notify the District promptly of the following:
  - a. Any significant deviation from the submitted Annual Plan for the current Fiscal Year, including discussion of any major changes to the scope of funded projects or programs, noteworthy delays in implementation, reduction in benefits or community engagement, and/or modifications that change the SCW Program Goals intended to be accomplished.
  - b. Discovery of any potential archaeological or historical resource. Should a potential archaeological or historical resource be discovered during construction, the Municipality agrees that all work in the area of the find will cease until a qualified archaeologist has evaluated the situation and made recommendations regarding preservation of the resource, and the District has determined what actions should be taken to protect and preserve the resource. The Municipality agrees to implement appropriate actions as directed by the District.
  - c. Any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by District representatives with at least fourteen (14) days' notice to the District.

**B-25. Municipality's Responsibility for Work**

The Municipality shall be responsible for all work and for persons or entities engaged in work performed pursuant to this Agreement including, but not limited to, contractors, subcontractors, suppliers, and providers of services. The Municipality shall be responsible for responding to any and all disputes arising out of its contracts for work on the Project. The District will not mediate disputes between the Municipality and any other entity concerning responsibility for performance of work.

**B-26. Reporting**

The Municipality shall be subject to and comply with all applicable requirements of the District regarding reporting requirements. Municipalities shall report available data through the SCW Reporting Module, once available.

1. Annual Progress/Expenditure Reports. The Municipality shall submit Annual Progress/Expenditure Reports, using a format provided by the District, within six (6) months following the end of the Fiscal Year to the District to detail the activities of the prior year. The Annual Progress/Expenditure Reports shall be posted on the District's publicly accessible website and on the Municipality's website. The Annual Progress/Expenditure Report shall include:
  - a. Amount of funds received;
  - b. Breakdown of how the SCW Program Payment has been expended;

- c. Documentation that the SCW Program Payment was used for eligible expenditures in accordance with Chapters 16 and 18 of the Code;
  - d. Description of activities that have occurred, milestones achieved, and progress made to date, during the applicable reporting period including comparison to the Annual Plan and corresponding metrics;
  - e. Discussion of any existing gaps between what was planned and what was achieved for the prior year, include any lessons learned;
  - f. Description of the Water Quality Benefits, Water Supply Benefits, and Community Investment Benefits and a summary of how SCW Program Payments have been used to achieve SCW Program Goals for the prior year, including graphical representation of available data and specific metrics to demonstrate the benefits being achieved through the years' investments.
  - g. Discussion of alignment with other local, regional, and state efforts, resources, and plans, as applicable. This includes discussion of opportunities for addressing additional SCW Program Goals, leveraging SCW Program Goals, and increasing regional capacity to supplement the SCW Program.
  - h. Additional financial or Project-related information in connection with activity funded in whole or in part using SCW Program Payments as required by the District.
  - i. Certification from a California Registered Professional (Civil Engineer or Geologist, as appropriate), that projects implemented with SCW Program Payments were conducted in accordance with Chapters 16 and 18 of the Code.
  - j. Report on annual and total (since inception of program) benefits provided by programs and projects funded by SCW Program Payment. This includes comparisons to annual plans and alignment with corresponding specific quantitative targets and metrics (note that SCW Reporting Module will facilitate calculation of benefits and graphical representation of pertinent data):
    - i. Annual volume of stormwater captured and treated
    - ii. Annual volume of stormwater captured and reused
    - iii. Annual volume of stormwater captured and recharged to a managed aquifer
    - iv. Annual creation, enhancement, or restoration of Community Investment Benefits. If none, discuss considerations explored and reasons to not include.
    - v. Annual acreage increases in Nature-Based Solutions and claimed level of NBS (with matrix demonstrating determination of good, better, best, as outlined in Exhibit C). If none, discuss considerations explored and reasons to not include.
    - vi. Annual expenditures providing DAC Benefits. If none, discuss considerations explored and reasons to not include.
2. Documentation of the Community Outreach and Engagement utilized for and/or achieved with the SCW Program Payment described in the Annual Plan Exhibit A. This information must be readily accessible to members of the public.
  3. As Needed Information or Reports. The Municipality agrees to promptly provide such reports, data, and information as may be reasonably requested by the District including, but not limited to material necessary or appropriate for evaluation of the SCW Program or to fulfill any reporting requirements of the County, state or federal government.

#### B-27. Representations, Warranties, and Commitments

The Municipality represents, warrants, and commits as follows:

1. Authorization and Validity. The execution and delivery of this Agreement, including all incorporated documents, by the individual signing on behalf of Municipality, has been duly authorized by the governing body of Municipality, as applicable. This Agreement constitutes a valid and binding obligation of the Municipality, enforceable in accordance with its terms, except as such enforcement may be limited by law.
2. No Violations. The execution, delivery, and performance by the Municipality of this Agreement,

including all incorporated documents, do not violate any provision of any law or regulation in effect as of the date set forth on the first page hereof, or result in any breach or default under any contract, obligation, indenture, or other

instrument to which the Municipality is a party or by which the Municipality is bound as of the date set forth on the first page hereof.

3. No Litigation. There are no pending or, to the Municipality's knowledge, threatened actions, claims, investigations, suits, or proceedings before any governmental authority, court, or administrative agency which affect the Municipality's ability to complete the Annual Plan.
4. Solvency. None of the transactions contemplated by this Agreement will be or have been made with an actual intent to hinder, delay, or defraud any present or future creditors of the Municipality. As of the date set forth on the first page hereof, the Municipality is solvent and will not be rendered insolvent by the transactions contemplated by this Agreement. The Municipality is able to pay its debts as they become due.
5. Legal Status and Eligibility. The Municipality is duly organized and existing and in good standing under the laws of the State of California. The Municipality shall at all times maintain its current legal existence and preserve and keep in full force and effect its legal rights and authority.
6. Good Standing. The Municipality must demonstrate it has not failed to comply with previous County and/or District audit disallowances within the preceding five years.

B-28. Unenforceable Provision

In the Event that any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable, the parties agree that all other provisions of this Agreement have been force and effect and shall not be affected thereby.

B-29. Withholding of Disbursements and Material Violations

Notwithstanding any other provision of this Agreement, the District may withhold all or any portion of the SCW Program Payment for any Fiscal Year in the event that:

1. The Municipality has violated any provision of this Agreement; or
2. The Municipality fails to maintain reasonable progress in achieving SCW Program Goals, following an opportunity to cure.
3. Failure to remain in Good Standing, described in Section B-26 of Exhibit B.
4. Failure to submit annual reports on meeting SCW Program Goals.