

Submitted by staff  
at 4/1/13  
Board Meeting  
Item 2X

**ASSIGNMENT AGREEMENT**

THIS ASSIGNMENT AGREEMENT, dated as of April 1, 2013 (this “Assignment Agreement”), is made by and between the [CORPORATION], a \_\_\_\_\_ corporation duly organized and validly existing under and by virtue of the laws of the State of California (the “Corporation”) and RABOBANK, N.A., a national banking association organized under the laws of the United States of America (the “Bank”);

WITNESSETH:

WHEREAS, the Corporation desires to assign to the Bank without recourse certain of its rights under the Installment Purchase Agreement, dated as of April 1, 2013 (the “Installment Purchase Agreement”), by and between the Monterey Peninsula Water Management District (the “District”), is a special district duly organized and validly existing under the laws of the State of California, including the Monterey Peninsula Water Management District Act, Statutes of 1977, Chapter 527 (the “Act”), including all of its rights to receive Installment Payments scheduled to be paid by the District under and pursuant to the Installment Purchase Agreement;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

**Section 1. Definitions.** All capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Installment Purchase Agreement.

**Section 2. Assignment.** The Corporation does hereby assigns and transfers to the Bank all of the Corporation’s rights, title and interest (but none of its obligations) in and to the Installment Purchase Agreement.

**Section 3. Acceptance of Assignment.** The Bank hereby accepts the assignment and transfer of such of the Corporation’s rights, title and interest (but none of its obligations) in and to the Installment Purchase Agreement as are assigned and transferred to it pursuant to the terms of this Assignment Agreement.

**Section 4. Deposit and Application of Funds.** In consideration of the assignment made hereunder by the Corporation to the Bank, the Bank hereby agrees to provide the amount of \$\_\_\_\_\_ on the Closing Date for the purpose of making the following deposits in accordance with the Disbursement Request and Authorization attached hereto as Exhibit A:

- (a) to the Reserve Fund (to be held by the Bank) \$\_\_\_\_\_; and
- (b) to the Project Fund \$\_\_\_\_\_ (less net disbursement of \$20,000 to Bank and \$\_\_\_\_\_ for costs of issuance).

**Section 5. Representations and Warranties of the Corporation.** The Corporation hereby represents and warrants to the Bank as follows:

(a) No modifications, amendments or changes have been made to the Installment Purchase Agreement.

(b) The Installment Purchase Agreement is valid, binding and enforceable in accordance with its terms.

(c) It has not previously assigned any right, title or interest the Corporation has in the Installment Purchase Agreement to any other party and no other party has any superior right, title or interest than such right, title and interest being assigned to the Bank pursuant to this Assignment Agreement.

(d) It does not have any defenses, set-off rights, claims or other demands of any kind that can be asserted to reduce, eliminate or contravene the rights being assigned to the Bank pursuant to this Assignment Agreement.

(e) It has the right to assign the Installment Purchase Agreement to the Bank as set forth herein.

(f) The undersigned officer of the Corporation has the requisite power and authority to enter into this Assignment Agreement.

**Section 6. No Additional Rights or Duties.** This Assignment Agreement shall not impose any duties, obligations or responsibilities upon the Corporation or the District beyond those expressly provided in the Installment Purchase Agreement or as otherwise set forth herein.

**Section 7. Further Assurances.** The Corporation will 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 rights and obligations intended to be conveyed pursuant hereto.

**Section 8. Counterparts.** This Assignment Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

**Section 9. Law Governing.** This Assignment Agreement shall be construed and governed in accordance with the laws of the State of California. The Authority irrevocably agrees that all actions, proceedings or counterclaims arising out of or relating to this Assignment Agreement will be litigated in the Superior Court of California selected by the Bank, or the United States District Court for the Eastern District of California. The Authority irrevocably consents to service, jurisdiction, and venue of those courts for all such actions, proceedings and counterclaims and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. Final judgment against the Authority in any such action, suit or

proceeding shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment, a certificate or exemplified copy of which shall be conclusive evidence of the judgment or in any other manner provided by law. The Authority irrevocably waives to the fullest extent permitted by applicable law (a) any objection which it may have now or in the future to the laying of the venue of any such action, suit or proceeding in any court referred to in the first sentence above; (b) any claim that any such action, suit or proceeding has been brought in an inconvenient forum; (c) its right of removal of any matter commenced by any other party in the courts of the State of California to any court of the United States of America; (d) to the extent permitted by law, any immunity which it or its assets may have in respect of its obligations under this agreement or the purchase agreement from any suit, execution, attachment (whether provisional or final, in aid of execution, before judgment or otherwise) or other legal process; and (e) any right it may have to require the moving party in any suit, action or proceeding brought in any of the courts referred to above arising out of or in connection with this Assignment Agreement to post security for the costs of the district or to post a bond or to take similar action.

**Section 10. Waiver of trial by jury.** To the fullest extent permitted by law, the parties hereto (a) covenant and agree not to elect a trial by jury in any action or proceeding for the resolution of any controversy or claim that arises out of or relates to this Assignment Agreement, whether arising in contract, tort or by statute (individually and collectively, a “controversy or claim”); and, (b) to the extent permitted by applicable law, hereby irrevocably waive all right to a trial by jury as to any issue relating hereto in any action, proceeding or counterclaim arising out of or relating to any transaction document to the extent such right exists now or in the future. The provisions of this Section are separately given by each party hereto knowingly and voluntarily; and are a material inducement for the Bank entering into this Assignment Agreement and accepting the assignment set forth herein.

**Section 11. Notices.** All notices under this Assignment Agreement shall be in accordance with the Installment Purchase Agreement.

**Section 12. Binding Effect; Successors.** This Assignment Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Whenever in this Assignment Agreement any party is named or referred to, such reference shall be deemed to include such party’s successors and assigns and all covenants and agreements contained in this Assignment Agreement by or on behalf of any party hereto shall bind and inure to the benefit of such party’s successors and assigns whether so expressed or not.

[Remainder of page intentionally left blank.]

**IN WITNESS WHEREOF**, the parties hereto have executed this Assignment Agreement as of the date first above written.

[CORPORATION]

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

RABOBANK, N.A.

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**  
**DISBURSEMENT REQUEST AND AUTHORIZATION**