

TO: BOARD OF DIRECTORS

FROM: MARYANN GOODKIND
BOND COUNSEL

REVIEWED: MARIO IGLESIAS
GENERAL MANAGER



DATE: JANUARY 19, 2022

**AGENDA ITEM
E-1
JANUARY 26, 2022**

**AUTHORIZATION OF THE NIPOMO COMMUNITY SERVICES DISTRICT
WASTEWATER REVENUE CERTIFICATES OF PARTICIPATION
SERIES 2022**

ITEM

It is recommended that the Board of Directors:

1. Adopt the following resolution:

Resolution of the Board [Attachment 1] Authorizing the Execution and Delivery by the District of an Installment Purchase Agreement, a Trust Agreement, a Continuing Disclosure Agreement, an Escrow Agreement and a Certificate Purchase Agreement in connection with the Nipomo Community Services District Wastewater Revenue Certificates of Participation, Series 2022, Authorizing the Execution and Delivery of Such Certificates of Participation Evidencing Principal in an Aggregate Amount of Not To Exceed \$11,500,000, Approving a Notice of Intention To Sell, Authorizing the Distribution of A Notice of Sale and an Official Statement In Connection with the Offering and Sale of Such Certificates of Participation And Authorizing the Execution of Necessary Documents and Related Actions.

then

2. Convene to the Nipomo Community Services District Public Facilities Corporation (PFC) special meeting

Conduct PFC business including:

It is recommended that the Board of Directors of the PFC:

Adopt the following resolution:

Resolution of the Board [Attachment 2] Authorizing the Execution and Delivery by the Corporation of an Installment Purchase Agreement and a Trust Agreement in Connection with the Nipomo Community Services District Wastewater Revenue Certificates of Participation, Series 2022, Authorizing the Execution and Delivery of such Certificates of Participation Evidencing Principal in an Aggregate Amount of Not to Exceed \$11,500,000 and Authorizing the Execution of Necessary Documents and Related Actions

3. Reconvene back to the regular meeting of the Board of the Nipomo Community Services District.

BACKGROUND

The Nipomo Community Services District ("District") issued COP's in 2012 (the "2012 COPs") to fund improvements to the Southland Wastewater Treatment Facility. Recently, District staff contacted Columbia Capital and asked their team to evaluate the interest rates and opportunities, looking for advantages that may exist with lower interest rates in the current financial markets. Columbia Capital completed an evaluation and staff and Columbia Capital made a presentation on September 22, 2021.

The presentation highlighted the District's ability to take advantage of the current lower interest rate environment. Under current market conditions, Columbia estimates that the interest rate on the refunding portion of the borrowing can be reduced from approximately 4.1% to 2.6%, achieving present value cost savings of over \$1.1 million along with release of approximately \$598,000 from the Series 2012 bond reserve fund that will be used to redeem the 2012 COPs. The 2012 COPs may be currently refinanced on or after March 3, 2022 for prepayment on June 1, 2022. Please note that the municipal bond market has been volatile so far in 2022 and interest rates have generally been bumping up along with general interest rates. Final savings and rates will depend on interest rates on the day of sale, which is expected to be February 9, 2022.

The Board gave direction to refinance the 2012 COPs as well as extend the repayment term, allowing the District to borrow an additional \$3 million without increasing the existing annual debt service to pay for the Frontage Road Trunk Sewer Replacement/Improvement (the "2022 Project"). It is currently expected that the repayment term will be extended from 2042 to 2047 or 2048 depending on interest rates at time of sale. The refinancing proposal of the COP's and the use of funds as described above are consistent with and comply with the District's Debt Management Policy under Resolution No. 2020-1539.

The approved financing plan calls for the execution of new Revenue Certificates of Participation (the "2022 COPs"), a portion of the proceeds to refinance the 2012 COPs and a portion to fund the 2022 Project.

2022 COPs. The 2022 COPs will be secured by net revenues of the Town Division Sewer Enterprise (gross revenues less operation and maintenance less certain deposits and grants, if any). This will be the only debt of the Town Division Sewer Enterprise. Once the Blacklake system is consolidated with the Town Division, the COPs will be secured by the resulting single sewer enterprise. Note that an assessment district was formed and assessment bonds issued in 2020 secured by assessments levied on parcels with the Blacklake system for Blacklake's share of the consolidation improvements.

The District and Public Facilities Corporation (PFC) will enter into a new Installment Purchase Agreement whereby the District will agree to repurchase the portion of the Sewer system funded by the 2012 COPs and purchase the 2022 Project. The Installment Payments will be structured to correspond to the debt service on the 2022 COPs. The term of the debt is proposed to be 25 or 26 years and will be structured to assure that the annual payments will be level. Total annual debt payments are expected to be approximately \$600,000 per year until 2047 or 2048 depending on final bond rating and market conditions at time of sale.

The structure calls for no debt service reserve fund to be funded. A bond rating has been applied from Standard & Poor's. The rating is expected to be publicly announced on January 21, 2022. It is currently expected that the Sewer Enterprise system rating will be in the double-A category but there is no assurance of this. The current bond rating is AA-. Bond insurance may also be considered by the purchaser of the 2022 COPs if shown to be cost effective in lowering interest cost net of the premium. The 2022 COPs method of bond sale will either be competitive or negotiated depending on market conditions toward the end of this month with a bond closing following on March 3 or shortly thereafter. The true interest rate on the debt is currently expected to be 2.72% depending on the final bond rating and marketing conditions at time of sale.

It was originally proposed that the 2022 COPs be sold by competitive sale. Under a competitive sale, the underwriter who submits the lowest bid on the sale date is the purchaser of the 2022 COPs. However, due to some instability in the financial markets, it is suggested that the Board approve a backup plan for a negotiated sale and approve a form of certificate purchase agreement if determined by the General Manager after consultation with District counsel and consultants that a negotiated sale is preferable to a competitive sale. Staff and the municipal advisor would conduct a modified RFP process to select an underwriter.

It is appropriate at this meeting to consider for adoption the resolutions authorizing the execution and delivery of the 2022 COPs. Resolutions for the District and PFC are attached which would authorize the execution and delivery of not to exceed \$11,500,000 of wastewater revenue certificates of participation by the District. The COPs will be sold on a competitive basis (unless determined by the General Manager that negotiated is more advantageous to the District) at a true interest cost of not to exceed 4.75%. The resolutions also approve the various documents in connection with the execution and delivery of the 2022 COPs. Norton Rose Fulbright US LLP has acted as special counsel and disclosure counsel, Columbia Capital, as municipal advisor, and The Bank of New York Mellon Trust Company, N.A., as trustee.

The public disclosures required under SB 450, effective January 1, 2018, are incorporated herein. The estimates have been determined as of January 18, 2022. Specifically:

- 1) *The true interest cost of the 2022 COPs, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the new issue of 2022 COPs is estimated to be 2.72%.*
- 2) *The finance charge of the 2022 COPs, which means the sum of all fees and charges paid to third parties is estimated to be \$307,731. No bond insurance premiums are anticipated. Such insurance may or may not be available.*
- 3) *The amount of proceeds received by the public body for sale of the 2022 COPs less the finance charge of the 2022 COPs described and any reserves or capitalized interest paid or funded with proceeds of the 2022 COPs is estimated to be \$10,897,565.*
- 4) *The total payment amount, which means the sum total of all payments the borrower will make to pay debt service on the 2022 COPs plus any finance charge of the 2022 COPs not paid with the proceeds of the 2022 COPs. The total payment amount calculated to the final maturity of the 2022 COPs is estimated to be \$15,458,639.*

General Summary of Security: 2022 COPs are secured by revenues received by the PFC from the District, namely the Installment Payments under the Installment Purchase Agreement. Each owner of the 2022 COPs will have a proportionate share of an undivided interest in the installment payments. The installment payments have an interest and principal component and will be payable semiannually. Under the Installment Purchase Agreement, the District pledges its Net Revenues to the payment of the Installment Payments. Net Revenues include gross revenues of the enterprise minus operating and maintenance costs. The District covenants to maintain its rates and charges at a specified level (125%) to have sufficient Net Revenue (less capacity charges) to make Installment Payments.

The action today by the Board is to approve the execution and delivery of the 2022 COPs in an amount not to exceed \$11,500,000, along with the approval of related bond documents. These documents briefly described below and are as follows:

Trust Agreement [Attachment 3]: The Trust Agreement is one of the key legal documents that lays out the legal structure and terms of the financing. It specifies payment dates, maturity dates of the 2022 COPs; revenues and accounts specifically pledged to the repayment of the 2022 COPs; flow of funds; default and remedy provisions; defeasance provisions in the event the 2022 COPs are prepaid; and covenants of the PFC and the District. The Trust Agreement is drafted by Special Counsel and executed by the PFC, the District and Trustee.

Installment Purchase Agreement [Attachment 4]: The Installment Purchase Agreement is the other key legal document that contains the pledge of Net Revenues by the District to make installment payments. It specifies payment dates; revenues and accounts specifically pledged to the repayment of the 2022 COPs; parity obligation tests; rate covenants and further covenants of the PFC and the District. It is drafted by Special Counsel and executed by the PFC and the District.

Escrow Agreement [Attachment 5]: This Agreement provides that a portion of the proceeds from the 2022 COPs and the Series 2012 bond reserve fund will be deposited with the 2012 COPs trustee and used to defease the 2012 COPs and prepay 2012 installment payments on June 1, 2022. It is drafted by Special Counsel and executed by the District and 2012 COPs trustee as escrow agent.

Official Statement [Attachment 6]: The Official Statement describes the security and discloses potential risks to prospective investors. It will generally describe the sources of payment for the 2022 COPs, the nature of the improvement project, the financial condition of the District's Town Division sewer enterprise, the economic and demographic characteristics of the District, and inherent known risk factors associated with the security. It's important that this document not contain any material misstatements or omissions. The Preliminary Official Statement (often referred to as the "POS") is provided to potential bidders prior to the sale so that they can make informed bidding decisions. The POS should be as close to final as possible with the actual terms of the pricing (interest rates and principal amounts) left necessarily blank. The Final Official Statement (FOS) will be prepared shortly after the bond sale and must be available in time for bond closing. The POS and FOS are drafted by Special Counsel, acting as disclosure counsel and is executed by the District.

Continuing Disclosure Certificate [Attachment 7]: This certificate outlines the updated information related to the security that the District will agree to provide to the bond markets. Securities and Exchange Commission Rule 15c2-12 requires that certain disclosure be undertaken by the

District. Disclosure is required annually, and on an exceptional basis for any major "material" event. This document is drafted by Special Counsel, acting as disclosure counsel, and executed by the District.

Notice of Sale [Attachment 8]: This document provides a summary of the details of the competitive sale of the 2022 COPs. The 2022 COPs will be sold on a competitive basis at a true interest rate of not to exceed 4.75%. The sale of the 2022 COPs is scheduled on or about February 9 at which time the General Manager will award the 2022 COPs to the best bidder. The bid form is submitted by potential underwriters on the day of the sale, and specifies the actual principal amounts, interest rates and prices at which the 2022 COPs will be purchased. In it, the underwriter commits to purchase the 2022 COPs at closing at the agreed upon prices and amounts subject to certain closing conditions. This document is drafted by Special Counsel.

Certificate Purchase Agreement (if needed) [Attachment 9]: This agreement is between the District and a selected underwriter. If determined by the General Manager to sell on a negotiated basis, the true interest rate will be not to exceed 4.75%, with an underwriter's discount of not to exceed 1.5% and a principal amount of not to exceed \$11,500,000. This document is drafted by Special Counsel and executed by the District and the Underwriter.

More specific details of the financing can be found in the drafts of the documents referenced above.

It is appropriate at this meeting to consider for adoption the resolutions of the District and PFC authorizing the execution and delivery of the 2022 COPs.

FISCAL IMPACT

Total annual debt payments for the 2022 COPs are expected to be approximately \$600,000 per year through 2047 or 2048. The maximum term is thirty years payable first from net revenues of the Town Division Sewer Enterprise.

STRATEGIC PLAN

Goal 2. FACILITIES THAT ARE RELIABLE, ENVIRONMENTALLY SENSIBLE AND EFFICIENT. Plan, provide for and maintain District facilities and other physical assets to achieve reliable, environmentally sensible, and efficient District operations.

- B.1 NCS D shall maintain long-range infrastructure management, upgrade and replacement planning.
- B.2 Manage both collection systems with the objective of zero spills and zero permit violations from all regulatory oversight agencies and to ensure the long-term preservation of assets.

Goal 4. FINANCE. Maintain conservative, long-term financial management to minimize rate impacts on customers while meeting program financial needs.

- B.1 Evaluate, plan for and maintain finances that are adequate for all needs, stable, and reliable over the long-term.

Goal 6. GOVERNANCE AND ADMINISTRATION. Conduct District activities in an efficient, equitable and cost-effective manner.

A.1 Periodically review, update and reaffirm District policies and procedures.

RECOMMENDATION

Staff recommends that your Honorable Board adopt Resolution 2022-XXXX approving:

- A TRUST AGREEMENT
- AN INSTALLMENT PURCHASE AGREEMENT
- ESCROW AGREEMENT
- A CONTINUING DISCLOSURE CERTIFICATE
- A PRELIMINARY OFFICIAL STATEMENT
- A NOTICE OF INTENTION TO SELL AND NOTICE OF SALE
- CERTIFICATE PURCHASE AGREEMENT

then

Convene to Nipomo Community Services District Public Facilities Corporation

ATTACHMENTS

1. NIPOMO CSD RESOLUTION 2022-XXXX
2. NIPOMO CSD PUBLIC FACILITIES CORPORATION RESOLUTION 2022 - 8
3. TRUST AGREEMENT
4. INSTALLMENT PURCHASE AGREEMENT
5. ESCROW AGREEMENT
6. PRELIMINARY OFFICIAL STATEMENT (POS)
7. CONTINUING DISCLOSURE CERTIFICATE (SEE APPENDIX E TO POS)
8. NOTICE OF INTENTION TO SELL AND NOTICE OF SALE
9. CERTIFICATE PURCHASE AGREEMENT

JANUARY 26, 2022

ITEM E-1

ATTACHMENT 1

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2022-XXXX**

RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AUTHORIZING THE EXECUTION AND DELIVERY BY THE DISTRICT OF AN INSTALLMENT PURCHASE AGREEMENT, A TRUST AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT, AN ESCROW AGREEMENT AND A CERTIFICATE PURCHASE AGREEMENT IN CONNECTION WITH THE NIPOMO COMMUNITY SERVICES DISTRICT WASTEWATER REVENUE CERTIFICATES OF PARTICIPATION, SERIES 2022, AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH CERTIFICATES OF PARTICIPATION EVIDENCING PRINCIPAL IN AN AGGREGATE AMOUNT OF NOT TO EXCEED \$11,500,000, APPROVING A NOTICE OF INTENTION TO SELL, AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL NOTICE OF SALE AND AN OFFICIAL STATEMENT IN CONNECTION WITH THE OFFERING AND SALE OF SUCH CERTIFICATES OF PARTICIPATION AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND RELATED ACTIONS

WHEREAS, to finance the acquisition, construction and installation of certain improvements to its Town Division wastewater system (the “Prior Project”), the Nipomo Community Services District (the “District”) has heretofore purchased the Prior Project from the Nipomo Community Services District Public Facilities Corporation (the “Corporation”), for the installment payments (the “Prior Installment Payments”) made by the District pursuant to the Installment Sale Agreement, dated as of June 1, 2012 (the “Prior Installment Sale Agreement”), by and between the District and the Corporation;

WHEREAS, to provide the funds necessary to finance the Prior Project, the District caused the execution and delivery of the Nipomo Community Services District Revenue Certificates of Participation (Southland Wastewater Project), Series 2012 (the “Prior Obligations”), evidencing direct, undivided fractional interests in the Prior Installment Payments;

WHEREAS, the District desires to refinance the Prior Project by prepaying all of portion of the remaining Prior Installment Payments, and the interest thereon to the date of prepayment, thereby causing all of the remaining Prior Obligations to be prepaid;

WHEREAS, the District desires to finance the acquisition, construction and installation of certain additional improvements to its Town Division wastewater system (the “2022 Project”);

WHEREAS, to provide the funds necessary to prepay the remaining Prior Installment Payments and to finance the 2022 Project, the District and the Corporation desire that the Corporation purchase the Prior Project from the District and the District sell the Prior Project to the Corporation, and that the District then purchase the Prior

**Nipomo Community Services District
Resolution No. 2022-XXXX**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO
COMMUNITY SERVICES DISTRICT AUTHORIZING THE EXECUTION AND
DELIVERY BY THE DISTRICT OF AN INSTALLMENT PURCHASE
AGREEMENT, A TRUST AGREEMENT, A CONTINUING DISCLOSURE
AGREEMENT, AN ESCROW AGREEMENT AND A CERTIFICATE
PURCHASE AGREEMENT IN CONNECTION WITH THE NIPOMO
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Project and the 2022 Project from the Corporation and the Corporation sell the Prior Project and the 2022 Project to the District, for the installment payments (the “Installment Payments”) to be made by the District pursuant to an Installment Purchase Agreement by and between the District and the Corporation (such Installment Purchase Agreement, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the “Installment Purchase Agreement”);

WHEREAS, the Corporation intends to assign without recourse certain of its rights under and pursuant to the Installment Purchase Agreement to The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”), pursuant to a Trust Agreement by and among the Trustee, the Corporation and the District (such Trust Agreement, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the “Trust Agreement”);

WHEREAS, in consideration of such assignment and the execution and delivery of the Trust Agreement, the Trustee intends to execute and deliver the Nipomo Community Services District Wastewater Revenue Certificates of Participation, Series 2022 (the “Certificates”), evidencing direct, undivided fractional interests in the Installment Payments, and the interest thereon;

WHEREAS, the District desires to provide for either the public sale of the Certificates or a negotiated sale depending on market conditions;

WHEREAS, a form of the Notice of Intention to Sell to be published in connection with the public offering and sale of the Certificates has been prepared (such Notice of Intention to Sell, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the “Notice of Intention to Sell”);

**Nipomo Community Services District
Resolution No. 2022-XXXX**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO
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DELIVERY BY THE DISTRICT OF AN INSTALLMENT PURCHASE
AGREEMENT, A TRUST AGREEMENT, A CONTINUING DISCLOSURE
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PURCHASE AGREEMENT IN CONNECTION WITH THE NIPOMO
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WHEREAS, a form of the Official Notice of Sale to be distributed in connection with the public offering and sale of the Certificates has been prepared (such Official Notice of Sale, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the “Notice of Sale”);

WHEREAS, a form of the Preliminary Official Statement to be distributed in connection with the public offering of the Revenue Obligations has been prepared (such Preliminary Official Statement in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the “Preliminary Official Statement”);

WHEREAS, Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (“Rule 15c2-12”), requires that the underwriter thereof must have reasonably determined that the District has undertaken in a written agreement or contract for the benefit of the holders of the Certificates to provide disclosure of certain financial information and certain material events on an ongoing basis;

WHEREAS, to cause such requirement to be satisfied, the District desires to enter into a Continuing Disclosure Certificate (such Continuing Disclosure Certificate in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the “Continuing Disclosure Certificate”);

WHEREAS, there have been prepared and submitted to this meeting forms of:

- a) the Installment Purchase Agreement;
- b) the Trust Agreement;

Nipomo Community Services District
Resolution No. 2022-XXXX

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AGREEMENT, A TRUST AGREEMENT, A CONTINUING DISCLOSURE
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- c) the Notice of Intention to Sell;
- d) the Notice of Sale;
- e) a Certificate Purchase Agreement if a negotiated sale is determined to be in the best interests of the District (the “Certificate Purchase Agreement”);
- f) the Preliminary Official Statement;
- g) the Continuing Disclosure Certificate; and
- h) the Escrow Agreement relating to the Prior Obligations to be prepaid (the “Escrow Agreement”).

WHEREAS, all acts, conditions and things required by the Constitution and laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the financing authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the District is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such financing for the purpose, in the manner and upon the terms herein provided;

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY THE NIPOMO COMMUNITY SERVICES DISTRICT BOARD OF DIRECTORS AS FOLLOWS:

Section 1. All of the recitals herein contained are true and correct and the Board of Directors of the District (the “Board”) so finds.

Section 2. The Installment Purchase Agreement, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, be and the

Nipomo Community Services District
Resolution No. 2022-XXXX

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same is hereby approved. The President of the Board, and such other member of the Board as the President may designate, the General Manager of the District, the Treasurer and the Director of Engineering and Operations, and such other officers of the District as the General Manager may designate (the "Authorized Officers") are, and each of them is, hereby authorized and directed, for and in the name of the District, to execute and deliver, and the Secretary, or his or her written designee(s) is authorized to attest to, the Installment Purchase Agreement in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, or as required by the District Counsel, or the District's Special Counsel, Norton Rose Fulbright US LLP ("Special Counsel"), such requirement or approval to be conclusively evidenced by the execution of the Installment Purchase Agreement by such Authorized Officer; provided, however, that such changes, insertions and omissions shall not result in an aggregate principal component amount of the Installment Payments in excess of \$11,500,000, shall not result in a true interest cost for the Installment Payments in excess of 4.75% and shall not result in a final Installment Payment later than June 1, 2052.

Section 3. The Trust Agreement, in substantially the form submitted to this meeting and made a part hereof as though set forth in full herein, be and the same is hereby approved. The Authorized Officers are, and each of them is, hereby authorized and directed, for and in the name of the District, to execute and deliver, and the Secretary, or his or her written designee(s) is authorized to attest to, the Trust Agreement, and the in the form presented to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, or as required by the District Counsel or Special Counsel, such requirement or approval to be conclusively evidenced by the execution of the Trust Agreement by such Authorized Officer.

Section 4. The execution and delivery of Certificates evidencing principal in an aggregate amount not to exceed \$11,500,000, payable in the years and in the amounts, and evidencing principal of and interest on the Installment Payments as specified in the

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Trust Agreement as finally executed, are hereby authorized and approved. The Certificates are being executed and delivered in compliance with the District's Amended Debt Management Policy. In addition, in accordance with Government Code section 5852.1, this Board has been presented with certain Good Faith Estimates for the Certificates, which Good Faith Estimates are incorporated herein by reference.

Section 5. The prepayment of all of the remaining principal components of the Prior Installment Payments, and the interest components thereof to the dates of prepayment, and the Prior Obligations evidencing interests therein, as determined by any Authorized Officer, is hereby authorized and approved.

Section 6. The form of Notice of Intention to Sell, in substantially the form submitted to this meeting and made a part hereof as though set forth in full herein, with such changes, insertions and omissions therein as may be approved by an Authorized Officer, or as required by the District Counsel or the Special Counsel, is hereby approved, and the use of the Notice of Intention to Sell in connection with the offering and sale of the Certificates is hereby approved. The Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the District, to cause the Notice of Intention to Sell to be published once in *The Bond Buyer* (or in such other financial publication generally circulated throughout the State of California or reasonably expected to be disseminated among prospective bidders for the Certificates as an Authorized Officer shall approve as being in the best interests of the District) at least five days prior to the date set for the opening of bids in the Notice of Sale, with such changes, insertions and omissions therein as an Authorized Officer may require or approve, such requirement or approval to be conclusively evidenced by such publishing of the Notice of Intention to Sell.

Section 7. The Notice of Sale, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, with such changes, insertions and omissions therein as may be approved by an Authorized Officer, or as required by the District Counsel or the Special Counsel, be and the same is hereby approved, and the use

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Resolution No. 2022-XXXX**

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AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND
RELATED ACTIONS**

of the Notice of Sale in connection with the offering and sale of the Certificates is hereby authorized and approved. The terms and conditions of the offering and sale of the Certificates shall be as specified in the Notice of Sale. Bids for the purchase of the Certificates shall be received at the time and place set forth in the Notice of Sale. The Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the District, to accept the bid for the Certificates with the lowest true interest cost, or to reject all bids therefor, in accordance with the terms of the Notice of Sale.

Section 8. It is intended that the Certificates be sold by competitive sale. However, the Board authorizes the General Manager to determine after consultation with District counsel and consultants whether a negotiated sale is preferable to a competitive sale. If so determined then staff and the municipal advisor shall conduct a modified RFP process to select an underwriter (the "Underwriter"). The Certificate Purchase Agreement, in substantially the form submitted to this meeting and made a part hereof as though set forth in full herein, be and the same is hereby approved. The Authorized Officers are, and each of them is, hereby authorized and directed, for and in the name of the District, to execute and deliver, and the Secretary, or his or her written designee(s) is authorized to attest to, the Certificate Purchase Agreement, in the form presented to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, or as required by the District Counsel or Special Counsel, such requirement or approval to be conclusively evidenced by the execution of the Certificate Purchase Agreement by such Authorized Officer, provided that the aggregate principal amount evidenced by the Certificates shall not exceed \$11,500,000, a true interest cost shall not exceed 4.75% and a final Installment Payment date shall not be later than June 1, 2052.

Section 9. The Preliminary Official Statement, in substantially the form presented to this meeting and made a part hereof as though set forth in full herein, with such changes, insertions and omissions therein as may be approved by an Authorized Officer, is hereby approved, and the use of the Preliminary Official Statement in

**Nipomo Community Services District
Resolution No. 2022-XXXX**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO
COMMUNITY SERVICES DISTRICT AUTHORIZING THE EXECUTION AND
DELIVERY BY THE DISTRICT OF AN INSTALLMENT PURCHASE
AGREEMENT, A TRUST AGREEMENT, A CONTINUING DISCLOSURE
AGREEMENT, AN ESCROW AGREEMENT AND A CERTIFICATE
PURCHASE AGREEMENT IN CONNECTION WITH THE NIPOMO
COMMUNITY SERVICES DISTRICT WASTEWATER REVENUE
CERTIFICATES OF PARTICIPATION, SERIES 2022, AUTHORIZING THE
EXECUTION AND DELIVERY OF SUCH CERTIFICATES OF
PARTICIPATION EVIDENCING PRINCIPAL IN AN AGGREGATE AMOUNT
OF NOT TO EXCEED \$11,500,000, APPROVING A NOTICE OF INTENTION
TO SELL, AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL NOTICE
OF SALE AND AN OFFICIAL STATEMENT IN CONNECTION WITH THE
OFFERING AND SALE OF SUCH CERTIFICATES OF PARTICIPATION AND
AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND
RELATED ACTIONS**

connection with the offering and sale of the Certificates is hereby authorized and approved. The Authorized Officers are each hereby authorized to certify on behalf of the District that the Preliminary Official Statement is deemed final as of its date, within the meaning of Rule 15c2-12 (except for the omission of certain information permitted by Rule 15c2-12 to be omitted). The Authorized Officers are each hereby authorized and directed to furnish, or cause to be furnished, to prospective bidders for the Certificates a reasonable number of copies of the Preliminary Official Statement.

Section 10. The preparation and delivery of a final Official Statement (the “Official Statement”), and its use in connection with the offering and sale of the Certificates, be and the same is hereby authorized and approved. The Official Statement shall be in substantially the form of the Preliminary Official Statement, with such changes, insertions and omissions as may be approved by an Authorized Officer, or as required by the District Counsel or the Special Counsel, such approval to be conclusively evidenced by the execution and delivery thereof. The Authorized Officers are, and each of them is, hereby authorized and directed to execute the final Official Statement and any amendment or supplement thereto, for and in the name of the District.

Section 11. The Continuing Disclosure Certificate, in substantially the form appended to the Preliminary Official Statement and submitted to this meeting and made a part hereof as though set forth herein, be and the same is hereby approved. The Authorized Officers are, and each of them is, hereby authorized and directed, for and in the name of the District, to execute and deliver the Continuing Disclosure Certificate in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, or as required by the District Counsel or the Special Counsel, such requirement or approval to be conclusively evidenced by the execution of the Continuing Disclosure Certificate by such Authorized Officer.

Section 12. The Escrow Agreement, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, be and the same is hereby

**Nipomo Community Services District
Resolution No. 2022-XXXX**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO
COMMUNITY SERVICES DISTRICT AUTHORIZING THE EXECUTION AND
DELIVERY BY THE DISTRICT OF AN INSTALLMENT PURCHASE
AGREEMENT, A TRUST AGREEMENT, A CONTINUING DISCLOSURE
AGREEMENT, AN ESCROW AGREEMENT AND A CERTIFICATE
PURCHASE AGREEMENT IN CONNECTION WITH THE NIPOMO
COMMUNITY SERVICES DISTRICT WASTEWATER REVENUE
CERTIFICATES OF PARTICIPATION, SERIES 2022, AUTHORIZING THE
EXECUTION AND DELIVERY OF SUCH CERTIFICATES OF
PARTICIPATION EVIDENCING PRINCIPAL IN AN AGGREGATE AMOUNT
OF NOT TO EXCEED \$11,500,000, APPROVING A NOTICE OF INTENTION
TO SELL, AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL NOTICE
OF SALE AND AN OFFICIAL STATEMENT IN CONNECTION WITH THE
OFFERING AND SALE OF SUCH CERTIFICATES OF PARTICIPATION AND
AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND
RELATED ACTIONS**

approved. The Authorized Officers are, and each of them is, hereby authorized and directed, for and in the name of the District, to execute and deliver the Escrow Agreement in the forms submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, or as required by the District Counsel or the Special Counsel, such requirement or approval to be conclusively evidenced by the execution of the Escrow Agreement by such Authorized Officer.

Section 13. The Authorized Officers are, and each of them hereby 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 for carrying out the execution and delivery of the Certificates and the transactions contemplated by the notices, agreements and documents referenced in this Resolution, including the purchase of municipal bond insurance for all or any portion of the Certificates.

Section 14. All actions heretofore taken by the officers and employees of the District with respect to the execution, delivery and sale of the Certificates, or in connection with or related to any of the agreements or documents referenced in this Resolution, are hereby approved, confirmed and ratified.

Section 15. Any action authorized or directed in this resolution to be taken or performed by an Authorized Officer may be taken or performed by their designee with the same force and effect as if taken or performed by such Authorized Officer.

Section 16. If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The Board hereby declares that it would have passed this resolution and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Nipomo Community Services District
Resolution No. 2022-XXXX**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO
COMMUNITY SERVICES DISTRICT AUTHORIZING THE EXECUTION AND
DELIVERY BY THE DISTRICT OF AN INSTALLMENT PURCHASE
AGREEMENT, A TRUST AGREEMENT, A CONTINUING DISCLOSURE
AGREEMENT, AN ESCROW AGREEMENT AND A CERTIFICATE
PURCHASE AGREEMENT IN CONNECTION WITH THE NIPOMO
COMMUNITY SERVICES DISTRICT WASTEWATER REVENUE
CERTIFICATES OF PARTICIPATION, SERIES 2022, AUTHORIZING THE
EXECUTION AND DELIVERY OF SUCH CERTIFICATES OF
PARTICIPATION EVIDENCING PRINCIPAL IN AN AGGREGATE AMOUNT
OF NOT TO EXCEED \$11,500,000, APPROVING A NOTICE OF INTENTION
TO SELL, AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL NOTICE
OF SALE AND AN OFFICIAL STATEMENT IN CONNECTION WITH THE
OFFERING AND SALE OF SUCH CERTIFICATES OF PARTICIPATION AND
AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND
RELATED ACTIONS**

Section 17. The Board finds that the sale of the Certificates to refinance the Prior Project and to finance the 2022 Project is categorically exempt from review under the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (“CEQA”) and its implementing guidelines (Title 14 of the California Code of Regulations, Section 15000 et seq.) (the “CEQA Guidelines”) pursuant to CEQA Guidelines Section 15302 because the Project consists of the replacement or reconstruction of existing sewer facilities located generally on the same site as the sewer system and equipment being replaced and will have generally the same purpose and capacity as that existing system. Staff is hereby directed to file a Notice of Exemption with the County Clerk within five (5) days of the adoption of this resolution pursuant to Section 15062 of the CEQA Guidelines.

Section 18. This Resolution shall take effect upon its adoption by the Board.

Nipomo Community Services District
Resolution No. 2022-XXXX

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO
COMMUNITY SERVICES DISTRICT AUTHORIZING THE EXECUTION AND
DELIVERY BY THE DISTRICT OF AN INSTALLMENT PURCHASE
AGREEMENT, A TRUST AGREEMENT, A CONTINUING DISCLOSURE
AGREEMENT, AN ESCROW AGREEMENT AND A CERTIFICATE
PURCHASE AGREEMENT IN CONNECTION WITH THE NIPOMO
COMMUNITY SERVICES DISTRICT WASTEWATER REVENUE
CERTIFICATES OF PARTICIPATION, SERIES 2022, AUTHORIZING THE
EXECUTION AND DELIVERY OF SUCH CERTIFICATES OF
PARTICIPATION EVIDENCING PRINCIPAL IN AN AGGREGATE AMOUNT
OF NOT TO EXCEED \$11,500,000, APPROVING A NOTICE OF INTENTION
TO SELL, AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL NOTICE
OF SALE AND AN OFFICIAL STATEMENT IN CONNECTION WITH THE
OFFERING AND SALE OF SUCH CERTIFICATES OF PARTICIPATION AND
AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND
RELATED ACTIONS**

Upon a motion by Director _____, seconded by Director _____, on
the following roll call vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

the foregoing resolution is hereby passed and adopted at a regular meeting on this ____
day of _____, 2022.

ED EBY
President of the Board

ATTEST:

APPROVED AS TO FORM:

MARIO IGLESIAS
Secretary to the Board

CRAIG A. STEELE
District Legal Counsel

JANUARY 26, 2022

ITEM E-1

ATTACHMENT 2

**NIPOMO COMMUNITY SERVICES DISTRICT
PUBLIC FACILITIES CORPORATION
RESOLUTION NO. 2022-08**

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT PUBLIC FACILITIES CORPORATION AUTHORIZING THE EXECUTION AND DELIVERY BY THE CORPORATION OF AN INSTALLMENT PURCHASE AGREEMENT AND A TRUST AGREEMENT IN CONNECTION WITH THE NIPOMO COMMUNITY SERVICES DISTRICT WASTEWATER REVENUE CERTIFICATES OF PARTICIPATION, SERIES 2022, AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH CERTIFICATES OF PARTICIPATION EVIDENCING PRINCIPAL IN AN AGGREGATE AMOUNT OF NOT TO EXCEED \$11,500,000 AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND RELATED ACTIONS

WHEREAS, to finance the acquisition, construction and installation of certain improvements to its Town Division wastewater system (the “Prior Project”), the Nipomo Community Services District (the “District”) has heretofore purchased the Prior Project from the Nipomo Community Services District Public Facilities Corporation (the “Corporation”), for the installment payments (the “Prior Installment Payments”) made by the District pursuant to the Installment Sale Agreement, dated as of June 1, 2012 (the “Prior Installment Sale Agreement”), by and between the District and the Corporation;

WHEREAS, to provide the funds necessary to finance the Prior Project, the District caused the execution and delivery of the Nipomo Community Services District Revenue Certificates of Participation (Southland Wastewater Project), Series 2012 (the “Prior Obligations”), evidencing direct, undivided fractional interests in the Prior Installment Payments;

WHEREAS, the District desires to refinance the Prior Project by prepaying all of portion of the remaining Prior Installment Payments, and the interest thereon to the date of prepayment, thereby causing all of the remaining Prior Obligations to be prepaid;

WHEREAS, the District desires to finance the acquisition, construction and installation of certain additional improvements to its Town Division wastewater system (the “2022 Project”);

WHEREAS, to provide the funds necessary to prepay the remaining Prior Installment Payments and to finance the 2022 Project, the District and the Corporation desire that the Corporation purchase the Prior Project from the District and the District sell the Prior Project to the Corporation, and that the District then purchase the Prior Project and the 2022 Project from the Corporation and the Corporation sell the Prior Project and the 2022 Project to the District, for the installment payments (the “Installment Payments”) to be made by the District pursuant to an Installment Purchase Agreement by

**Nipomo Community Services District
Public Facilities Corporation
Resolution No. 2022-08**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO
COMMUNITY SERVICES DISTRICT PUBLIC FACILITIES CORPORATION
AUTHORIZING THE EXECUTION AND DELIVERY BY THE CORPORATION
OF AN INSTALLMENT PURCHASE AGREEMENT AND A TRUST
AGREEMENT IN CONNECTION WITH THE NIPOMO COMMUNITY
SERVICES DISTRICT WASTEWATER REVENUE CERTIFICATES OF
PARTICIPATION, SERIES 2022, AUTHORIZING THE EXECUTION AND
DELIVERY OF SUCH CERTIFICATES OF PARTICIPATION EVIDENCING
PRINCIPAL IN AN AGGREGATE AMOUNT OF NOT TO EXCEED \$11,500,000
AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND
RELATED ACTIONS**

and between the District and the Corporation (such Installment Purchase Agreement, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the “Installment Purchase Agreement”);

WHEREAS, the Corporation intends to assign without recourse certain of its rights under and pursuant to the Installment Purchase Agreement to The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”), pursuant to a Trust Agreement by and among the Trustee, the Corporation and the District (such Trust Agreement, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the “Trust Agreement”);

WHEREAS, in consideration of such assignment and the execution and delivery of the Trust Agreement, the Trustee intends to execute and deliver the Nipomo Community Services District Wastewater Revenue Certificates of Participation, Series 2022 (the “Certificates”), evidencing direct, undivided fractional interests in the Installment Payments, and the interest thereon;

WHEREAS, there have been prepared and submitted to this meeting forms of:

- a) the Installment Purchase Agreement; and
- b) the Trust Agreement.

WHEREAS, all acts, conditions and things required by the Constitution and laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the financing authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the District is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such financing for the purpose, in the manner and upon the terms herein provided;

**Nipomo Community Services District
Public Facilities Corporation
Resolution No. 2022-08**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO
COMMUNITY SERVICES DISTRICT PUBLIC FACILITIES CORPORATION
AUTHORIZING THE EXECUTION AND DELIVERY BY THE CORPORATION
OF AN INSTALLMENT PURCHASE AGREEMENT AND A TRUST
AGREEMENT IN CONNECTION WITH THE NIPOMO COMMUNITY
SERVICES DISTRICT WASTEWATER REVENUE CERTIFICATES OF
PARTICIPATION, SERIES 2022, AUTHORIZING THE EXECUTION AND
DELIVERY OF SUCH CERTIFICATES OF PARTICIPATION EVIDENCING
PRINCIPAL IN AN AGGREGATE AMOUNT OF NOT TO EXCEED \$11,500,000
AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND
RELATED ACTIONS**

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF
DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT PUBLIC
FACILITIES CORPORATION AS FOLLOWS:**

Section 1. All of the recitals herein contained are true and correct and the Board of Directors of the Corporation (the “Board”) so finds.

Section 2. The Installment Purchase Agreement, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, be and the same is hereby approved. The President of the Board, and such other member of the Board as the President may designate, the Executive Director, the Chief Financial Officer and such other officers of the Corporation as the Executive Director may designate (the “Authorized Officers”) are, and each of them is, hereby authorized and directed, for and in the name of the Corporation, to execute and deliver, and the Secretary, or his or her written designee(s) is authorized to attest to, the Installment Purchase Agreement in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, or as required by the Corporation Legal Counsel, or the Special Counsel, Norton Rose Fulbright US LLP (“Special Counsel”), such requirement or approval to be conclusively evidenced by the execution of the Installment Purchase Agreement by such Authorized Officer; provided, however, that such changes, insertions and omissions shall not result in an aggregate component amount of the Installment Payments in excess of \$11,500,000, shall not result in a true interest cost for the Installment Payments in excess of 4.75% and shall not result in a final Installment Payment later than June 1, 2052.

Section 3. The Trust Agreement, in substantially the form submitted to this meeting and made a part hereof as though set forth in full herein, be and the same is hereby approved. The Authorized Officers are, and each of them is, hereby authorized and directed, for and in the name of the Corporation, to execute and deliver, and the Secretary, or his or her written designee(s) is authorized to attest to, the Trust Agreement in the form presented to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, or as required by the Corporation Legal Counsel or Special Counsel, such requirement or approval to be

**Nipomo Community Services District
Public Facilities Corporation
Resolution No. 2022-08**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO
COMMUNITY SERVICES DISTRICT PUBLIC FACILITIES CORPORATION
AUTHORIZING THE EXECUTION AND DELIVERY BY THE CORPORATION
OF AN INSTALLMENT PURCHASE AGREEMENT AND A TRUST
AGREEMENT IN CONNECTION WITH THE NIPOMO COMMUNITY
SERVICES DISTRICT WASTEWATER REVENUE CERTIFICATES OF
PARTICIPATION, SERIES 2022, AUTHORIZING THE EXECUTION AND
DELIVERY OF SUCH CERTIFICATES OF PARTICIPATION EVIDENCING
PRINCIPAL IN AN AGGREGATE AMOUNT OF NOT TO EXCEED \$11,500,000
AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND
RELATED ACTIONS**

conclusively evidenced by the execution of the Trust Agreement by such Authorized Officer.

Section 4. The execution and delivery of Certificates evidencing principal in an aggregate amount not to exceed \$11,500,000, payable in the years and in the amounts, and evidencing principal of and interest on the Installment Payments as specified in the Trust Agreement as finally executed, are hereby authorized and approved.

Section 5. The Authorized Officers are, and each of them hereby 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 for carrying out the execution and delivery of the Certificates and the transactions contemplated by the notices, agreements and documents referenced in this Resolution.

Section 6. All actions heretofore taken by the officers and employees of the District with respect to the execution, delivery and sale of the Certificates, or in connection with or related to any of the agreements or documents referenced in this Resolution, are hereby approved, confirmed and ratified.

Section 7. Any action authorized or directed in this resolution to be taken or performed by an Authorized Officer may be taken or performed by their designee with the same force and effect as if taken or performed by such Authorized Officer.

Section 8. If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The Board hereby declares that it would have passed this resolution and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 9. This Resolution shall take effect upon its adoption by the Board.

**Nipomo Community Services District
Public Facilities Corporation
Resolution No. 2022-08**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO
COMMUNITY SERVICES DISTRICT PUBLIC FACILITIES CORPORATION
AUTHORIZING THE EXECUTION AND DELIVERY BY THE CORPORATION
OF AN INSTALLMENT PURCHASE AGREEMENT AND A TRUST
AGREEMENT IN CONNECTION WITH THE NIPOMO COMMUNITY
SERVICES DISTRICT WASTEWATER REVENUE CERTIFICATES OF
PARTICIPATION, SERIES 2022, AUTHORIZING THE EXECUTION AND
DELIVERY OF SUCH CERTIFICATES OF PARTICIPATION EVIDENCING
PRINCIPAL IN AN AGGREGATE AMOUNT OF NOT TO EXCEED \$11,500,000
AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND
RELATED ACTIONS**

Upon a motion by Director _____, seconded by Director _____, on the following roll call vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

the foregoing resolution is hereby passed and adopted at a special meeting on this ____ day of _____, 2022.

ED EBY
President of the Board

ATTEST:

APPROVED AS TO FORM:

MARIO IGLESIAS
Secretary to the Board

CRAIG A. STEELE
Corporation Legal Counsel

JANUARY 26, 2022

ITEM E-1

ATTACHMENT 3

TRUST AGREEMENT

by and among

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Trustee,

NIPOMO COMMUNITY SERVICES DISTRICT
PUBLIC FACILITIES CORPORATION

and

NIPOMO COMMUNITY SERVICES DISTRICT

Dated as of March 1, 2022

Relating to

[\$[principal component]
Nipomo Community Services District
Wastewater Revenue Certificates of Participation
Series 2022

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EXHIBIT A – FORM OF CERTIFICATE

EXHIBIT B – FORM OF CONSTRUCTION FUND REQUISITION

TRUST AGREEMENT

THIS TRUST AGREEMENT (this "Trust Agreement"), dated as of March 1, 2022, is made by and among THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association organized and existing under the laws of the United States of America, as trustee (the "Trustee"), the NIPOMO COMMUNITY SERVICES DISTRICT PUBLIC FACILITIES CORPORATION, a nonprofit public benefit corporation organized and existing under the laws of the State of California (the "Corporation"), and the NIPOMO COMMUNITY SERVICES DISTRICT, a special district organized and existing under the laws of the State of California (the "District").

WITNESSETH:

WHEREAS, to finance the acquisition, construction and installation of certain improvements to its Town Division wastewater system (the "Prior Project"), the Nipomo Community Services District (the "District") has heretofore purchased the Prior Project from the Nipomo Community Services District Public Facilities Corporation (the "Corporation"), and the Corporation has heretofore sold the Prior Project to the District, for the installment payments (the "Prior Installment Payments") made by the District pursuant to the Installment Sale Agreement, dated as of June 1, 2012, by and between the District and the Corporation;

WHEREAS, to provide the funds necessary to the Prior Project, the District caused the execution and delivery of the Nipomo Community Services District Revenue Certificates of Participation (Southland Wastewater Project), Series 2012 (the "Prior Obligations"), evidencing direct, undivided fractional interests in the Prior Installment Payments;

WHEREAS, the District has determined to refinance the Prior Project by prepaying all of the remaining principal components of the Prior Installment Payments (the "Refunded Installment Payments"), and the interest components thereof to the date of prepayment, thereby causing to be prepaid all of the currently outstanding Prior Obligations, in the aggregate principal amount of \$ _____;

WHEREAS, the District has determined to finance the acquisition, construction and installation of certain additional improvements to its Town Division wastewater system (the "2022 Project");

WHEREAS, to provide the funds necessary to prepay all of the Refunded Installment Payments and to finance the 2022 Project, the District and the Corporation desire that the Corporation purchase the Prior Project from the District and the District sell the Prior Project to the Corporation, and that the District then purchase the Project (as defined herein) from the Corporation and the Corporation sell the Project to the District, for the installment payments (the "Installment Payments") to be made by the District pursuant to the Installment Purchase Agreement, dated the date hereof (the "Installment Purchase Agreement");

WHEREAS, the Corporation proposes to assign without recourse certain of its rights under and pursuant to the Installment Purchase Agreement to the Trustee;

WHEREAS, in consideration of such assignment and the execution and delivery of this Trust Agreement, the Trustee has agreed to execute and deliver Nipomo Community Services District Wastewater Revenue Certificates of Participation, Series 2022 (the “Certificates”), which are certificates of participation, evidencing direct, undivided fractional interests in the Installment Purchase Agreement and the related Installment Payments, and the interest thereon;

WHEREAS, a portion of the proceeds of the Certificates will be used to prepay the Refunded Installment Payments; and

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 delivery of this Trust 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 deliver this Trust Agreement;

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

ARTICLE I

DEFINITIONS; EQUAL SECURITY

Section 1.01. Definitions. Except as provided in Section 1.02 hereof or unless the context otherwise requires, the terms defined in this Section shall for all purposes hereof and of any amendment hereof or supplement hereto and of the Certificates and of any certificate, opinion, request or other document mentioned herein or therein have the meanings defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein:

“**Additional Payments**” has the meaning ascribed thereto in Section 4.3 of the Installment Purchase Agreement.

“**Annual Debt Service**” means, for any Fiscal Year, the sum of (1) the interest component of the Installment Payments and the interest payable on all Parity Obligations during such Fiscal Year, assuming that all such Installment Payments are paid as scheduled and all such Parity Obligations are retired as scheduled, plus (2) the principal component of the Installment Payments and the principal amount allocable to all Parity Obligations in such Fiscal Year, provided that the following adjustments shall be made to the foregoing amounts in the calculation of Annual Debt Service:

(a) with respect to any Parity Obligations bearing or comprising interest at other than a fixed interest rate, the rate of interest used to calculate Annual Debt Service shall be (i) with respect to such Parity Obligations then outstanding, 110% of the greater of (A) the daily average interest rate on such Parity Obligations during the 12 calendar months next preceding the date of such calculation (or the portion of such 12 calendar months that such Parity Obligations have borne interest), or (B) the most recent effective interest rate on such Parity Obligations prior to the date of such calculation, or (ii) with

respect to Parity Obligations then proposed to be issued, the then current The Bond Buyer Revenue Bond Index for a maturity comparable to the maturity of the applicable Parity Obligations (or if such index is no longer published, such other published similar index as shall be selected by the District);

(b) with respect to any issue or series of Parity Obligations having 25% or more of the aggregate principal amount thereof due in any one Fiscal Year, Annual Debt Service shall be calculated as if the interest on and principal of the Parity Obligations of such issue or series were being paid in substantially equal annual amounts over the term of such Parity Obligations; provided, however that the full amount of scheduled payments of interest and principal of such Parity Obligations shall be included in Annual Debt Service if the date of calculation is within 24 months of the date on which such 25% or more of aggregate principal amount becomes due;

(c) with respect to any Parity Obligations or portions thereof bearing no interest but which are sold at a discount and which discount accretes with respect to such Parity Obligations or portions thereof, such accreted discount shall be treated as due when scheduled to be paid;

(d) Annual Debt Service shall not include interest on any Parity Obligations which is to be paid from amounts constituting capitalized interest;

(e) if an interest rate swap agreement is in effect with respect to, and is payable on a parity with, any Parity Obligations, no amounts payable under such interest rate swap agreement in addition to debt service payable with respect to such Parity Obligations shall be included in the calculation of Annual Debt Service unless, in the applicable Fiscal Year, the sum of (i) the interest payable on such Parity Obligations, plus (ii) the amounts payable by the District under such interest rate swap agreement, less (iii) the amounts receivable by the District under such interest rate swap agreement, is greater than the interest payable on such Parity Obligations, in which case the net amount of payments to be made by the District under such interest rate swap agreement that exceed the interest to be paid on such Parity Obligations shall be included in such calculation, and for this purpose, the variable amount under any such interest rate swap agreement shall be determined in accordance with the procedure set forth in subparagraph (a) of this definition; and

(f) Repayment Obligations payable on a parity with the Installment Payments or any Parity Obligations shall be deemed to be payable at the scheduled amount due under such Repayment Obligation, and, for this purpose, the variable interest amount included in any such Repayment Obligation shall be determined in accordance with the procedure set forth in subparagraph (a) of this definition.

“Authorized Corporation Representative” means the President, the Executive Director, the Chief Financial Officer and the Secretary of the Corporation, and any other Person authorized by the Executive Director of the Corporation to act on behalf of the Corporation under or with respect to this Trust Agreement.

“Authorized Denominations” means \$5,000 and integral multiples thereof.

“Authorized District Representative” means the President of the Board, General Manager of the District, Finance Director of the District, the Treasurer of the District and any other Person authorized by the General Manager of the District to act on behalf of the District under or with respect to this Trust Agreement.

“Beneficial Owners” means those individuals, partnerships, corporations or other entities for which the Participants have caused the Depository to hold Book-Entry Certificates.

“Board” means the Board of Directors of the District.

“Book-Entry Certificates” means the Certificates registered in the name of the nominee of DTC, or any successor securities depository for the Certificates, as the Owner thereof pursuant to the terms and provisions of Section 2.10 hereof.

“Business Day” means a day other than (a) Saturday or Sunday, (b) a day on which banking institutions in the city in which the Principal Office is located are authorized or required by law to be closed, and (c) a day on which the New York Stock Exchange is authorized or obligated by law or executive order to be closed.

“Cede & Co.” means Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Certificates.

“Certificate of an Independent Consultant” means an instrument in writing signed by an Independent Consultant.

“Certificate Year” means each twelve-month period beginning on June 2 in each year and extending to the next succeeding June 1, both dates inclusive.

“Certificates” means the Nipomo Community Services District Wastewater Revenue Certificates of Participation, Series 2022, executed and delivered by the Trustee pursuant hereto, which are certificates of participation, evidencing direct, undivided fractional interests in the Installment Purchase Agreement and the related Installment Payments, and the interest thereon.

“Closing Date” means March __, 2022.

“Code” means the Internal Revenue Code of 1986.

“Construction Costs” means the costs of the acquisition, construction, rehabilitation, equipping, improvement or financing of improvements to, or part of, the Enterprise constituting the 2022 Project.

“Construction Fund” means the fund by that name established in accordance with Section 3.04 hereof and held by the Trustee.

“Continuing Disclosure Certificate” means the Continuing Disclosure Certificate, dated as of the Closing Date, by the District, as originally executed and as it may from time to time be amended in accordance with the terms thereof.

“Corporation” means the Nipomo Community Services District Public Facilities Corporation, a nonprofit public benefit corporation organized and existing under the laws of the State, and any successor thereto.

“Costs of Issuance” means all the costs of executing and delivering the Certificates, including, but not limited to, all printing and document preparation expenses in connection with this Trust Agreement, the Installment Purchase Agreement, the Certificates and any preliminary official statement and final official statement pertaining to the Certificates, fees of a municipal advisor, rating agency fees, market study fees, legal fees and expenses of counsel with respect to the execution and delivery of the Certificates, the initial fees and expenses of the Trustee and its counsel and other fees and expenses incurred in connection with the execution and delivery of the Certificates, to the extent such fees and expenses are approved by the District.

“Costs of Issuance Fund” means the fund by that name established in accordance with Section 3.03 hereof.

“Depository” means the securities depository acting as Depository pursuant to Section 2.10 hereof.

“District” means the Nipomo Community Services District, a special district organized and existing under the laws of the State, and any successor thereto.

“DTC” means The Depository Trust Company, New York, New York and its successors.

“Enterprise” means the Town Division wastewater system of the District, including all facilities, properties and improvements at any time owned, controlled or operated by the District under the Town Division wastewater system for the treatment of wastewater and any necessary lands, rights, entitlements and other property useful in connection therewith, together with all extensions thereof and improvements thereto at any time acquired, constructed or installed by the District, including the Project, and after consolidation with the Blacklake wastewater system, the entire wastewater system of the District.

“Escrow Agent” means The Bank of New York Mellon Trust Company, N.A. and its successor or assign.

“Escrow Agreement” means the Escrow Agreement, dated as of March 1, 2022, between the Escrow Agent and the District, related to the Prior Obligations.

“Escrow Fund” means the escrow fund established under the Escrow Agreement and held by the Escrow Agent.

“Event of Default” shall have the meaning set forth in Section 6.01 of the Installment Purchase Agreement.

“Fiscal Year” means the period beginning on July 1 of each year and ending on June 30 of the next succeeding year, or any other twelve-month period selected and designated as the official Fiscal Year of the District.

“Fitch” means Fitch Ratings, its successors and assigns, except that if such corporation shall no longer perform the function of a securities rating agency for any reason, the term “Fitch” shall be deemed to refer to any other nationally recognized securities rating agency selected by the District.

“Generally Accepted Accounting Principles” means the uniform accounting and reporting procedures set forth in publications of the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor.

“Government Obligations” means any of the following which are noncallable by the issuer thereof except to the extent not permitted by the laws of the State as an investment for the moneys to be invested therein at the time of investment:

(i) (a) direct general obligations of the United States of America, (b) obligations the payment of the principal of and interest on which are unconditionally guaranteed as to the full and timely payment by the United States of America, or (c) any fund or other pooling arrangement whose assets consist exclusively of the obligations listed in clause (a) or (b) of this clause (i) and which is rated at least “P-1” by Moody’s; provided that, such obligations shall not include unit investment trusts or mutual fund obligations;

(ii) advance refunded tax-exempt obligations that (a) are rated by Moody’s and S&P, (b) are secured by obligations specified in clause (i), (c) are tax-exempt because they are secured by obligations specified in clause (i), and (d) have the same ratings as the obligations specified in clause (i);

(iii) bonds, debentures or notes issued by any of the following federal agencies: Federal Farm Credit Bank, Federal Home Loan Mortgage Corporation or Fannie Mae; provided, that such bonds, debentures or notes shall be the senior obligations of such agencies (including participation certificates) and have the same ratings by Moody’s and S&P as the obligations specified in clause (i); and

(iv) bonds, debentures or notes issued by any Federal agency hereafter created by an act of Congress, the payment of the principal of and interest on which are unconditionally guaranteed by the United States of America as to the full and timely payment; provided, that, such obligations shall not include unit investment trusts or mutual fund obligations.

“Gross Revenues” means (i) all income, user fees, connection fees, capacity charges and income, transaction revenues, and all revenues secured or collected from or arising out of the use, capital improvement or operation of the Enterprise or arising from the Enterprise, including, without limitation, all charges, rentals and fees required to be paid for services as permitted or

required by law, resolution or order, to the District for operation of the Enterprise, (ii) other moneys deposited in the Sewer Fund by the District for the purpose of meeting any covenants under the Agreement, (iii) any earnings and income derived from the investment of any of the foregoing (A) that is credited by the District to the Sewer Fund or (B) to the extent that the use of such earnings and income is limited under law to the Enterprise, and (iv) income from the disposition of any portion of the Enterprise; except "Gross Revenues" do not include (w) any proceeds of taxes, *ad valorem* assessments, or benefit assessments, (x) grant, loan or bond proceeds restricted in use to specific capital improvements not consisting of the Project, (y) that portion of the annexation fees collected as deposits on behalf of and payable to other governmental agencies as required by law, and (z) any customer deposits or other advances subject to refund until such customer deposits or advances become the property of the District.

"Independent Certified Public Accountant" means any firm of certified public accountants appointed by the District, which is independent of the District and the Corporation pursuant to the Statement on Auditing Standards No. 1 of the American Institute of Certified Public Accountants.

"Independent Consultant" means any registered engineer or firm of registered engineers of national reputation generally recognized to be well qualified in engineering matters relating to wastewater systems, or any other financial consultant or firm of financial consultants (including an Independent Certified Public Accountant) generally recognized to be well qualified in matter relating to wastewater systems, appointed and paid by the District, and who or each of whom –

- (a) is in fact independent and not under the domination of the District;
- (b) does not have a substantial financial interest, direct or indirect, in the operations of the District; and
- (c) is not connected with the District as a director, officer or employee of the District, but may be regularly retained to make reports to the District.

"Installment Payment Date" means five (5) days prior to each Interest Payment Date, or if such day is not a Business Day, then the preceding Business Day.

"Installment Payment Fund" means the fund by that name established in accordance with Section 5.02 hereof.

"Installment Payments" means the Installment Payments required to be made by the District pursuant to Section 3.02 of the Installment Purchase Agreement.

"Installment Purchase Agreement" means the Installment Purchase Agreement, dated as of the date hereof, by and between the District and the Corporation, as originally executed and as it may from time to time be amended in accordance with the provisions thereof.

"Interest Account" means the account by that name within the Installment Payment Fund established in accordance with Section 5.02 hereof.

“Interest Payment Date” means June 1 and December 1 of each year, commencing [June 1, 2022].

“Letter of Representations” means the letter of the District delivered to and accepted by the Depository on or prior to the delivery of the Certificates as Book-Entry Certificates setting forth the basis on which the Depository serves as depository for such Book-Entry Certificates, as originally executed or as it may be supplemented or revised or replaced by a letter to a substitute Depository.

“Maximum Annual Debt Service” means, as of any date of calculation, the largest Annual Debt Service becoming due and payable in the Fiscal Year in which the calculation is made or in any subsequent Fiscal Year.

“Moody’s” means Moody’s Investors Service, its successors and assigns, except that if such corporation shall no longer perform the function of a securities rating agency for any reason, the term “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency selected by the District.

“Net Proceeds” means, when used with respect to any casualty insurance or condemnation award, the proceeds from such insurance or condemnation award remaining after payment of all expenses (including attorneys’ fees) incurred in the collection of such proceeds.

“Net Revenues” means, for any period, an amount equal to all of the Gross Revenues received for such period minus the amount required to pay all Operation and Maintenance Costs becoming payable during such period.

“Nominee” means the nominee of the Depository, which may be the Depository, as determined from time to time pursuant to Section 2.10 hereof.

“Obligations” mean the Installment Payments, Parity Obligations and Subordinate Obligations.

“Operation and Maintenance Costs” means the costs and expenses reasonable and necessary to operate and maintain the Enterprise, including but not limited to the costs and expenses to preserve the Enterprise in good repair and working order, including reasonable expenditures for repair and replacement incident to or arising from the Enterprise, the reasonable administrative costs and expenses of the District attributable to operation and maintenance of the Enterprise, and transfers made to other funds of the District for the purpose of paying or reimbursing the payment of Operation and Maintenance Costs, as determined by Generally Accepted Accounting Principles, but excluding (1) noncash items of depreciation, replacement and obsolescence charges or reserves therefore, (2) amortization of intangibles, premiums and discounts, (3) interest expense, (4) amounts paid from other than Gross Revenues of the Enterprise (including but not limited to amounts paid from the proceeds of property taxes and assessments), (5) non-cash expenses attributable to pension plans, other retirement accounts and other post-employment benefits.

“Opinion of Counsel” means a written opinion of Norton Rose Fulbright US LLP or any other counsel of recognized national standing in the field of law relating to municipal bonds, appointed and paid by the District.

“Outstanding,” when used as of any particular time with reference to Certificates, means (subject to the provisions of Section 9.02 hereof) all Certificates except (a) Certificates previously canceled by the Trustee or delivered to the Trustee for cancellation, (b) Certificates paid or deemed to have been paid within the meaning of Section 10.01 hereof, and (c) Certificates in lieu of or in substitution for which other Certificates shall have been executed and delivered by the Trustee pursuant to Section 2.09 hereof.

“Owner” means any Person who shall be the registered owner of any Outstanding Certificate as indicated in the registration books of the Trustee required to be maintained pursuant to Section 2.07 hereof.

“Parity Obligation Payments” means the payments scheduled to be paid by the District under and pursuant to Parity Obligations, which payments are secured by a pledge of Net Revenues on a parity with the Installment Payments as provided in the Installment Purchase Agreement.

“Parity Obligations” means all revenue bonds, certificates of participation or notes (including bond anticipation notes and commercial paper) of the District authorized, executed, issued and delivered under and pursuant to applicable law, and all other contracts (including financial contracts) or leases of the District authorized and executed by the District under and pursuant to applicable law, the installment, lease or other payments which are, in accordance with the provisions of the Installment Purchase Agreement, payable from Net Revenues on a parity with the Installment Payments under the Installment Purchase Agreement pursuant to and in accordance with the provisions of Section 5.3 of the Installment Purchase Agreement.

“Participants” means those broker-dealers, banks and other financial institutions from time to time for which the Depository holds Book-Entry Certificates as securities depository.

“Participating Underwriter” has the meaning ascribed thereto in the Continuing Disclosure Certificate.

“Permitted Investments” means any of the following, except to the extent not permitted by the laws of the State as an investment for the moneys to be invested therein at the time of investment:

(1) Government Obligations;

(2) Bonds, debentures, notes, participation certificates or other evidences of indebtedness issued, or the principal of and interest on which are unconditionally guaranteed, by the Federal Intermediate Credit Bank, the Federal Home Loan Bank System, the Government National Mortgage Association or any other agency or instrumentality of or corporation wholly owned by the United States of America when such obligations are backed by the full faith and credit of the United States for the full and timely payment of principal and interest;

(3) Obligations of any state of the United States or any political subdivision thereof, which at the time of investment are rated "Aa3" or higher by Moody's or "AA-" or higher by S&P or Fitch; or which are rated "VMIG 1" or better by Moody's, "A-1" or better by S&P, or "F1" or better by Fitch with respect to commercial paper, or "VMIG 1," "SP-1," or "F1," respectively, with respect to municipal notes;

(4) Unsecured certificates of deposit, demand deposits, including interest bearing money market accounts, time deposits trust funds, trust accounts, overnight bank deposits, interest-bearing deposits, other deposit products, certificates of deposit, including those placed by a third party pursuant to an agreement between the Trustee and the District, or bankers acceptances of depository institutions, including the Trustee or any of its affiliate, and bankers' acceptance (having maturities of not more than 365 days) of any bank the short-term obligations of which are rated on the date of purchase "A-1+" or better by S&P, "F1" or better by Fitch and "P-1" by Moody's and/or certificates of deposit (including those of the Trustee, its parent and its affiliates) secured at all times by collateral that may be used by a national bank for purposes of satisfying its obligations to collateralize pursuant to federal law which are issued by commercial banks, savings and loan associations or mutual savings bank whose short-term obligations are rated on the date of purchase "A-1" or better by S&P, "F1" or better by Fitch or "P-1" by Moody's and investment in any interest bearing deposits/interest bearing money market deposit account, time deposit account, including such accounts with the Trustee;

(5) Repurchase agreements with any bank, trust company or national banking association insured by the Federal Deposit Insurance Corporation (including the Trustee), with subsidiaries (of a parent company), provided the obligations of the subsidiary under the agreement are unconditionally guaranteed by the parent, or with any government bond dealer recognized as a primary dealer by the Federal Reserve Bank of New York, which agreements are fully and continuously secured by a valid and perfected first priority security interest in obligations described in paragraph (1) or (2) of this definition, provided that either such bank, trust company or national banking association which (or senior debt or claims paying ability of the financial entity's guarantor) is rated, at the time of investment, at least "A1" or "A+" by any two Rating Agencies;

(6) Repurchase agreements with maturities of not more than one year entered into with financial institutions such as banks or trust companies organized under state law or national banks or banking associations (including the Trustee), insurance companies or government bond dealers reporting to, trading with, and recognized as a primary dealer by, the Federal Reserve Bank of New York and a member of the Securities Investor Protection Corporation or with a dealer or parent holding company that is rated, at the time of investment, or whose long-term debt obligations (or senior debt or claims paying ability of the financial entity's guarantor) are rated, at the time of investment, at least "A1" or "A+" by any two Rating Agencies; provided, that such repurchase agreements are in writing, secured by obligations described in paragraphs (1) and (2) of this definition having a fair market value, exclusive of accrued interest, at least equal to the amount invested in the repurchase agreements and in which the Trustee has a perfected first lien in, and retains possession of, such obligations free from all third party claims;

(7) Investment agreements, forward purchase agreements and reserve fund put agreements with any corporation, including banking or financial institutions, or agreements entered into with subsidiaries (of a parent company), provided the obligations of the subsidiary under the agreement are unconditionally guaranteed by the parent, the corporate debt of which (or senior debt or claims paying ability of the financial entity's guarantor) is rated, at the time of investment, at least "A1" or "A+" by any two Rating Agencies;

(8) Guaranteed investment contracts or similar funding agreements issued by insurance companies, provided that either the long term corporate debt of such insurance company, at the time of investment, is rated, at the time of investment, at least "A1" or "A+" by any two Rating Agencies or which agreements are fully and continuously secured by a valid and perfected first priority security interest in obligations described in paragraph (1) or (2) of this definition, or that the following conditions are met: (a) the market value of the collateral is maintained at levels acceptable to Moody's and S&P or Fitch, (b) the Trustee or a third party acting solely as agent for the Trustee has possession of the collateral, (c) the Trustee has a perfected first priority security interest in the collateral, (d) the collateral is free and clear of third-party liens, and (e) failure to maintain the requisite collateral level will require the Trustee to liquidate collateral;

(9) Corporate commercial paper which are rated at the time of purchase at least "P-1," "A-1" or "F1" by any two Rating Agencies at the time of investment;

(10) Taxable government money market portfolios which are rated at least "AAm" or "AAm-G" or "Aaa-mf" or "AAmmf" by any two Rating Agencies (including funds for which the Trustee or an affiliate receives and retains a fee for services provided to the fund whether as a custodian, transfer agent, investment advisor or otherwise); and

(11) Deposits with the Local Agency Investment Fund of the State, as may otherwise be permitted by law.

Ratings of Permitted Investments referred to herein shall be determined at the time of purchase of such Permitted Investments and without regard to rating subcategories. The Trustee shall have no responsibility to monitor the ratings of Permitted Investments after the initial purchase of such Permitted Investments, or the responsibility to validate Permitted Investments the ratings of Permitted Investments prior to the initial purchase.

"Person" means an individual, corporation, limited liability company, firm, association, partnership, trust, or other legal entity or group of entities, including a governmental entity or any agency or political subdivision thereof.

"Prepayment Account" means the account by that name within the Installment Payment Fund established in accordance with Section 5.02 hereof.

"Prepayment Price" means, with respect to any Certificate (or portion thereof), the principal amount with respect to such Certificate (or portion thereof) plus the applicable premium, if any, payable upon prepayment thereof pursuant to the provisions of such Certificate and this Trust Agreement.

“Principal Account” means the account by that name within the Installment Payment Fund established in accordance with Section 5.02 hereof.

“Principal Office” means the Trustee’s principal corporate trust office in Los Angeles, California, except that with respect to presentation of Certificates for payment or for registration of transfer and exchange such term shall mean the office or agency of the Trustee at which, at any particular time, its corporate trust agency business shall be conducted.

“Principal Payment Date” means a date on which an Installment Payment evidenced by the Certificates becomes due and payable.

“Prior Obligations” has the meaning ascribed thereto in the recitals hereto.

“Prior Project” has the meaning ascribed thereto in the recitals hereto and furthered described in the Installment Purchase Agreement.

“Prior Trust Agreement” means the Trust Agreement, dated as of June 1, 2012, by and among The Bank of New York Mellon Trust Company, N.A., as trustee, the Corporation and the District, pursuant to which the Prior Obligations were executed and delivered.

“Project” means, collectively, the Prior Project and the 2022 Project.

“Rating Agency” means Fitch, Moody’s or S&P.

“Record Date” means, with respect to the interest payable on any Interest Payment Date, the 15th day of the calendar month immediately preceding such Interest Payment Date, whether or not such day is a Business Day.

“Refunded Installment Payments” has the meaning ascribed thereto in the recitals hereto.

“Repayment Obligation” means the reimbursement obligation or any other payment obligation of the District under a written agreement between the District and a credit or liquidity provider to reimburse the credit or liquidity provider for amounts paid pursuant to a credit or liquidity facility for the payment of the principal amount or purchase price of and/or interest on any Parity Obligation.

“S&P” means S&P Global Ratings, a Standard & Poor’s Financial Services LLC business, its successors and assigns, except that if such entity shall no longer perform the functions of a securities rating agency for any reason, the term “S&P” shall be deemed to refer to any other nationally recognized securities rating agency selected by the District.

“Sewer Fund” means the fund by that name referred to in Section 5.2 of the Installment Purchase Agreement.

“State” means the State of California.

“**Subordinate Obligations**” means the obligations of the District that are secured by a pledge of and payable from Net Revenues on a basis that is junior and subordinate to the payment of the Installment Payments and Parity Obligations.

“**Tax Certificate**” means the tax certificate described in Section 6.07 hereof.

“**Treasury Regulations**” means those regulations issued by the United States Department of the Treasury under the Code.

“**Trust Agreement**” means this Trust Agreement, dated as of March 1, 2022, by and among the Trustee, the Corporation and the District, as originally executed and delivered and as it may from time to time be amended or supplemented in accordance with the provisions hereof.

“**Trustee**” means The Bank of New York Mellon Trust Company, N.A., a national banking association duly organized and existing under the laws of the United States of America, or any other bank or trust company which may at any time be substituted in its place as provided in Section 8.02 hereof.

“**2022 Project**” has the meaning ascribed thereto in the recitals hereto and furthered described in the Installment Purchase Agreement.

“**Written Certificate**” and “**Written Request**” mean (a) with respect to the Corporation, a written certificate or written request, respectively, signed in the name of the Corporation by an Authorized Corporation Representative, and (b) with respect to the District, a written certificate or written request, respectively, signed in the name of the District by an Authorized District Representative. Any such certificate or request may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

Section 1.02. Definitions in Installment Purchase Agreement. Except as otherwise herein defined and unless the context otherwise requires, the terms defined in the Installment Purchase Agreement shall for all purposes hereof and of any amendment hereof or supplement hereto and of any report or other document mentioned herein have the meanings defined therein, such definitions to be equally applicable to both the singular and plural forms of any of the terms defined therein. With respect to any defined term which is given a different meaning under this Trust Agreement than under the Installment Purchase Agreement, as used herein it shall have the meaning given herein.

Section 1.03. Equal Security. In consideration of the acceptance of the Certificates by the Owners, this Trust Agreement shall be deemed to be and shall constitute a contract between the Trustee and the Owners to secure the full and final payment of the interest and principal evidenced by the Certificates which may be executed and delivered hereunder, subject to each of the agreements, conditions, covenants and terms contained herein; and all agreements, conditions, covenants and terms contained herein required to be observed or performed by or on behalf of the Trustee shall be for the equal and proportionate benefit, protection and security of all Owners without distinction, preference or priority as to security or otherwise of any Certificates over any other Certificates by reason of the number or date thereof or the time of

execution or delivery thereof or for any cause whatsoever, except as expressly provided herein or therein.

ARTICLE II

TERMS AND CONDITIONS OF CERTIFICATES

Section 2.01. Preparation and Delivery of Certificates. The Trustee is hereby authorized, upon the Written Request of the District, to execute and deliver the Certificates in the aggregate principal amount of \$[principal component] evidencing the aggregate principal amount of the Installment Payments and each evidencing a direct, fractional undivided interest in the Installment Payments, and the interest thereon. The Installment Payments evidenced by each Certificate shall constitute the principal evidenced thereby and the interest on such Installment Payments shall constitute the interest evidenced thereby. The Certificates shall be numbered, with or without prefixes, as directed by the Trustee.

Section 2.02. Denomination, Medium and Dating of Certificates. The Certificates shall be designated “Nipomo Community Services District Wastewater Revenue Certificates of Participation, Series 2022” and shall be prepared in the form of fully registered Certificates, without coupons, in Authorized Denominations and shall be payable in lawful money of the United States of America.

The Certificates shall be dated as of the Closing Date. Each Certificate shall evidence interest from the Interest Payment Date next preceding its date of execution to which interest has been paid in full, unless such date of execution shall be after a Record Date and on or prior to the following Interest Payment Date, in which case such Certificate shall evidence interest from such Interest Payment Date, or unless such date of execution shall be on or prior to [May 15, 2022], in which case such Certificate shall represent interest from the Closing Date. Notwithstanding, the foregoing, if, as shown by the records of the Trustee, interest evidenced by the Certificates shall be in default, each Certificate shall evidence interest from the last Interest Payment Date to which such interest has been paid in full or duly provided for.

Section 2.03. Payment Dates of Certificates; Interest Computation.

(a) *Method and Place of Payment.* The principal evidenced by the Certificates shall become due and payable, subject to prior prepayment, on June 1 of the years, in the amounts, and shall evidence interest accruing at the rates per annum set forth below:

<u>Principal Payment Date (June 1)</u>	<u>Principal Component</u>	<u>Interest Rate</u>
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Except as otherwise provided in the Letter of Representations, payments of interest evidenced by the Certificates shall be made to the Owners thereof (as determined at the close of business on the Record Date next preceding the related Interest Payment Date) by check or draft of the Trustee mailed to the address of each such Owner as it appears on the registration books maintained by the Trustee pursuant to Section 2.07 hereof, or to such other address as may be furnished in writing to the Trustee by each such Owner. Except as otherwise provided in the Letter of Representations, payment of principal and prepayment premium, if any, evidenced by the Certificates, on their stated Principal Payment Dates or on prepayment in whole or in part prior thereto, shall be made only upon presentation and surrender of the Certificates at the Principal Office.

(b) *Computation of Interest.* The interest evidenced by the Certificates shall be payable on each Interest Payment Date to and including their respective Principal Payment Dates or prepayment prior thereto, and shall represent the sum of the interest on the Installment Payments coming due on the Interest Payment Dates in each year. The principal evidenced by the Certificates shall be payable on their respective Principal Payment Dates in each year and shall represent the Installment Payments coming due on the Principal Payment Dates in each year. Interest evidenced by the Certificates shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

Section 2.04. Form of Certificates. The Certificates shall be in substantially the form of Exhibit A hereto, with necessary or appropriate insertions, omissions and variations as permitted or required hereby.

Section 2.05. Execution of Certificates and Replacement Certificates. The Certificates shall be executed by the Trustee by the manual signature of an authorized signatory of the Trustee. The Trustee shall deliver replacement Certificates in the manner and as contemplated by this Article. Such replacement Certificates shall be executed as herein provided and shall be in Authorized Denominations.

Section 2.06. Transfer and Payment, Exchange or Cancellation of Certificates. Each Certificate is transferable by the Owner thereof, in person or by his attorney duly

authorized in writing, at the Principal Office, on the registration books maintained by the Trustee pursuant to the provisions of Section 2.07 hereof, upon surrender of such Certificate for cancellation accompanied by delivery of a duly executed written instrument of transfer in a form acceptable to the Trustee. The Trustee may treat the Owner of any Certificate as the absolute owner of such Certificate for all purposes, whether or not the principal or interest evidenced by such Certificate shall be overdue, and the Trustee shall not be affected by any knowledge or notice to the contrary; and payment of the interest and principal evidenced by such Certificate shall be made only to such Owner, which payments shall be valid and effectual to satisfy and discharge the liability evidenced by such Certificate to the extent of the sum or sums so paid. Whenever any Certificate shall be surrendered for transfer, the Trustee shall execute and deliver a new Certificate or Certificates evidencing principal in the same aggregate amount and having the same stated Principal Payment Date. The Trustee shall require the payment by any Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer. Each Certificate may be exchanged at the Principal Office for Certificates evidencing principal in a like aggregate principal amount having the same stated Principal Payment Date in such Authorized Denominations as the Owner thereof may request. The Trustee shall require the payment by the Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange. The cost of printing Certificates and any services rendered or expenses incurred by the Trustee in connection with any transfer and exchange shall be paid by the District. Whenever in this Trust Agreement provision is made for the cancellation by the Trustee of any Bonds, the Trustee shall destroy such Bonds and deliver a certificate of such destruction to the District.

Prior to any transfer of a Certificate outside the book-entry system (including, but not limited to, the initial transfer outside the book-entry system) the transferor shall provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Internal Revenue Code Section 6045, as amended. The Trustee shall conclusively rely on the information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

Section 2.07. Certificate Registration Books. The Trustee shall keep at its Principal Office sufficient books for the registration and transfer of the Certificates, which books shall be available for inspection and copying by the District at reasonable hours and under reasonable conditions; and upon presentation for such purpose the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer the Certificates on such books as hereinabove provided.

Section 2.08. Temporary Certificates. The Certificates may be initially delivered in temporary form exchangeable for definitive Certificates when ready for delivery, which temporary Certificates shall be printed, lithographed or typewritten, shall be of such denominations as may be determined by the Trustee, shall be in fully registered form and shall contain such reference to any of the provisions hereof as may be appropriate. Every temporary Certificate shall be executed and delivered by the Trustee upon the same conditions and terms and in substantially the same manner as definitive Certificates. If the Trustee executes and delivers temporary Certificates, it shall prepare and execute definitive Certificates without delay, and thereupon the temporary Certificates may be surrendered at the Principal Office in exchange

for such definitive Certificates, and until so exchanged such temporary Certificates shall be entitled to the same benefits hereunder as definitive Certificates executed and delivered hereunder.

Section 2.09. Certificates Mutilated, Lost, Destroyed or Stolen. If any Certificate shall become mutilated, the Trustee, at the expense of the Owner thereof, shall execute and deliver a new Certificate evidencing a like principal amount and having the same stated Principal Payment Date and number in exchange and substitution for the Certificate so mutilated, but only upon surrender to the Trustee of the Certificate so mutilated. Every mutilated Certificate so surrendered to the Trustee shall be canceled by it. If any Certificate shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee, and if such evidence is satisfactory to the Trustee and indemnity satisfactory to the Trustee shall be given, the Trustee, at the expense of the Owner thereof, shall execute and deliver a new Certificate evidencing a like principal amount and having the same stated Principal Payment Date, numbered as the Trustee shall determine, in lieu of and in substitution for the Certificate so lost, destroyed or stolen. The Trustee may require payment of a sum not exceeding the actual cost of preparing each new Certificate executed and delivered by it under this Section and of the expenses which may be incurred by it under this Section. Any Certificate executed and delivered under the provisions of this Section in lieu of any Certificate alleged to be lost, destroyed or stolen shall be equally and proportionately entitled to the benefits hereof with all other Certificates executed and delivered hereunder, and the Trustee shall not be required to treat both the original Certificate and any replacement Certificate as being Outstanding for the purpose of determining the amount of Certificates which may be executed and delivered hereunder or for the purpose of determining any percentage of Certificates Outstanding hereunder, but both the original and replacement Certificate shall be treated as one and the same. Notwithstanding any other provision of this Section, in lieu of executing and delivering a new Certificate for a Certificate which has been lost, destroyed or stolen and which evidences principal that is then payable, the Trustee may make payment of such Certificate to the Owner thereof if so instructed by the District.

Section 2.10. Book-Entry System. (a) The Certificates shall be initially executed and delivered as Book-Entry Certificates, and the Certificates for each stated Principal Payment Date shall be in the form of a separate single fully registered Certificate (which may be typewritten). Upon initial execution and delivery, the ownership of each Certificate shall be registered in the registration books maintained by the Trustee in the name of the Nominee, as nominee of the Depository. Payment of principal or interest evidenced by any Book-Entry Certificate registered in the name of the Nominee shall be made on the applicable Interest Payment Date by wire transfer of New York clearing house or equivalent next day funds or by wire transfer of same day funds to the account of the Nominee. Such payments shall be made to the Nominee at the address which is, on the Record Date, shown for the Nominee in the registration books maintained by the Trustee.

(b) With respect to Book-Entry Certificates, the District, the Corporation and the Trustee shall have no responsibility or obligation to any Participant or to any Person on behalf of which such a Participant holds an interest in such Book-Entry Certificates. Without limiting the immediately preceding sentence, the District, the Corporation and the Trustee shall have no responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the

Nominee or any Participant with respect to any ownership interest in Book-Entry Certificates, (ii) the delivery to any Participant or any other Person, other than an Owner as shown in the registration books maintained by the Trustee, of any notice with respect to Book-Entry Certificates, including any notice of prepayment, (iii) the selection by the Depository and its Participants of the beneficial interests in Book-Entry Certificates to be prepaid in the event Certificates are prepaid in part, (iv) the payment to any Participant or any other Person, other than an Owner as shown in the registration books maintained by the Trustee, of any amount with respect to principal, premium, if any, or interest evidenced by Book-Entry Certificates, or (v) any consent given or other action taken by the Depository as Owner.

(c) The District, the Corporation and the Trustee may treat and consider the Person in whose name each Book-Entry Certificate is registered in the registration books maintained by the Trustee as the absolute Owner of such Book-Entry Certificate for the purpose of payment of principal, prepayment premium, if any, and interest evidenced by such Certificate, for the purpose of selecting any Certificates, or portions thereof, to be prepaid, for the purpose of giving notices of prepayment and other matters with respect to such Certificate, for the purpose of registering transfers with respect to such Certificate, for the purpose of obtaining any consent or other action to be taken by Owners and for all other purposes whatsoever, and the District, the Corporation and the Trustee shall not be affected by any notice to the contrary.

(d) The Trustee shall pay all principal, premium, if any, and interest evidenced by the Certificates to the respective Owner, as shown in the registration books maintained by the Trustee, or his respective attorney duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the obligations with respect to payment of principal, premium, if any, and interest evidenced by the Certificates to the extent of the sum or sums so paid. No Person other than an Owner, as shown in the registration books maintained by the Trustee, shall receive a Certificate evidencing principal, premium, if any, and interest evidenced by the Certificates. Upon delivery by the Depository to the Owners, the Trustee and the District of written notice to the effect that the Depository has determined to substitute a new nominee in place of the Nominee, and subject to the provisions herein with respect to Record Dates, the word Nominee in this Trust Agreement shall refer to such nominee of the Depository.

(e) To qualify the Book-Entry Certificates for the Depository's book-entry system, the District shall execute and deliver to the Depository a Letter of Representations. The execution and delivery of a Letter of Representations shall not in any way impose upon the Corporation, the District or the Trustee any obligation whatsoever with respect to persons having interests in such Book-Entry Certificates other than the Owners, as shown on the registration books maintained by the Trustee. Such Letter of Representations may provide the time, form, content and manner of transmission, of notices to the Depository. In addition to the execution and delivery of a Letter of Representations by the District, the District, the Corporation and the Trustee shall take such other actions, not inconsistent with this Trust Agreement, as are reasonably necessary to qualify Book-Entry Certificates for the Depository's book-entry program.

(f) If the District determines that it is in the best interests of the Beneficial Owners that they be able to obtain certificated Certificates and that such Certificates should therefore be made available and notifies the Depository and the Trustee of such determination, the Depository

will notify the Participants of the availability through the Depository of certificated Certificates. In such event, the Trustee shall transfer and exchange certificated Certificates as requested by the Depository and any other Owners in appropriate amounts. In the event (i) the Depository determines not to continue to act as securities depository for Book-Entry Certificates, or (ii) the Depository shall no longer so act and gives notice to the Trustee of such determination, then the District shall discontinue the Book-Entry system with the Depository. If the District determines to replace the Depository with another qualified securities depository, the District shall prepare or direct the preparation of a new single, separate, fully registered Certificate for each stated Principal Payment Date of such Book-Entry Certificates, registered in the name of such successor or substitute qualified securities depository or its nominee. If the District fails to identify another qualified securities depository to replace the Depository, then the Certificates shall no longer be restricted to being registered in the registration books maintained by the Trustee in the name of the Nominee, but shall be registered in whatever name or names the Owners transferring or exchanging such Certificates shall designate, in accordance with the provisions of Sections 2.06 and 2.09 hereof. Whenever the Depository requests the District to do so, the District will cooperate with the Depository in taking appropriate action after reasonable notice (i) to make available one or more separate certificates evidencing the Book-Entry Certificates to any Participant having Book-Entry Certificates credited to its account with the Depository, and (ii) to arrange for another securities depository to maintain custody of certificates evidencing the Book-Entry Certificates.

(g) Notwithstanding any other provision of this Trust Agreement to the contrary, if DTC is the sole Owner of the Certificates, so long as any Book-Entry Certificate is registered in the name of the Nominee, all payments of principal, premium, if any, and interest evidenced by such Certificate and all notices with respect to such Certificate shall be made and given, respectively, as provided in the Letter of Representations or as otherwise instructed by the Depository.

(h) In connection with any notice or other communication to be provided to Owners pursuant to the Trust Agreement by the District, the Corporation or the Trustee, with respect to any consent or other action to be taken by Owners, the Trustee shall establish a record date for such consent or other action and give the Depository notice of such record date not less than 15 calendar days in advance of such record date to the extent possible. Notice to the Depository shall be given only when DTC is the sole Owner of the Certificates.

ARTICLE III

PROCEEDS OF CERTIFICATES

Section 3.01. Delivery of Certificates. The Trustee is hereby authorized to execute the Certificates and deliver the Certificates to the original purchaser thereof upon receipt of a Written Request of the District and upon receipt of the net proceeds of sale thereof.

Section 3.02. Deposit of Proceeds of Certificates. The net proceeds received by the Trustee from the sale of the Certificates in the amount of \$_____ (which amount includes the bid security deposit for the Certificates in the amount of \$_____ on deposit with the Trustee) shall be deposited or transferred by the Trustee as follows:

(a) the Trustee shall deposit in the Costs of Issuance Fund the amount of \$ _____; and

(b) the Trustee shall transfer to the Escrow Agent for deposit in the Escrow Fund established under the Escrow Agreement the amount of \$ _____ from the proceeds of the Certificates, to apply, together with other available monies totaling \$ _____, to the prepayment of the installment payments related to the Prior Obligations as provided in the Escrow Agreement; and

(c) the Trustee shall deposit in the Construction Fund the amount of \$ _____.

The Trustee may establish a temporary fund or funds to facilitate the foregoing transfers.

Section 3.03. Costs of Issuance Fund. The Trustee shall establish and maintain a separate special fund to be held by the Trustee known as the Costs of Issuance Fund. There shall be deposited in the Costs of Issuance Fund on the Closing Date the amount required to be deposited therein pursuant to Section 3.02 hereof. The Trustee shall disburse moneys from the Costs of Issuance Fund on such dates and in such amounts as are necessary to pay Costs of Issuance, in each case upon the Written Request of the District stating the Person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred and that such payment is a proper charge against the Costs of Issuance Fund. Each such Request of the District shall be sufficient evidence to the Trustee of the facts stated therein and the Trustee shall have no duty to confirm the accuracy of such facts. On the date that is six months after the Closing Date, the Trustee shall transfer any amounts then remaining in the Costs of Issuance Fund to the Installment Payment Fund. Upon such transfer, the Costs of Issuance Fund shall be closed.

Section 3.04. Construction Fund. There is hereby established with the Trustee the Construction Fund, which the Trustee shall establish and maintain and hold in trust separate and apart from other funds held by it. The moneys in the Construction Fund shall be used and withdrawn by the Trustee to pay costs of the acquisition, construction, rehabilitation, equipping, improvement or financing of improvements to, or part of, the 2022 Project.

Section 3.05. Payment of Construction Costs. Amounts in the Construction Fund shall be disbursed for Construction Costs. Disbursements from the Construction Fund shall be made by the Trustee upon receipt of a sequentially numbered requisition, a form of which is attached as Exhibit B, requesting disbursement, and executed by an Authorized District Representative.

The Trustee shall be responsible for the safekeeping and investment (in accordance with Section 5.03 hereof) of the moneys held in the Construction Fund and the payment thereof in accordance with this Section 3.05. Each such requisition shall be sufficient evidence to the Trustee of the facts stated therein and the Trustee shall have no duty to confirm the accuracy of such facts.

Any unexpended moneys in the Construction Fund subsequent to the payment of all Construction Costs which are not used to pay the cost of other improvements of the District shall be transferred by the Trustee and deposited in the Installment Payment Fund upon receipt by the

Trustee of a Written Request of the District accompanied by a Written Certificate of the District stating that all Construction Costs have been paid or provision made for their payment.

ARTICLE IV

PREPAYMENT OF CERTIFICATES

Section 4.01. Optional Prepayment. The Certificates maturing on or after June 1, 2031 are subject to optional prepayment prior to their stated Principal Payment Dates, on any date on or after June 1, 2030, in whole or in part, in Authorized Denominations, from and to the extent of prepaid Installment Payments paid pursuant to the Installment Purchase Agreement or from any other source of available funds, any such prepayment to be at a Prepayment Price equal to the principal evidenced by the Certificates to be prepaid, plus accrued interest evidenced thereby to the date fixed for prepayment, without premium.

Section 4.02. Mandatory Prepayment. The Certificates bearing stated maturities of June 1, 20__, and June 1, 20__, respectively, shall be subject to mandatory prepayment, upon notice as hereinafter provided, in part (by lot) on the respective prepayment dates, in integral multiples of \$5,000 at a Prepayment Price of the principal amount thereof plus accrued interest evidenced and represented thereby to the date fixed for prepayment, without premium. Such Certificates shall be prepaid in the amounts and upon the dates as follows:

Term Certificate Maturing June 1, 20__

<u>Prepayment Dates</u> <u>(June 1)</u>	<u>Principal Amount</u>
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*Maturity

Term Certificate Maturing June 1, 20__

<u>Prepayment Dates</u> <u>(June 1)</u>	<u>Principal Amount</u>
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*Maturity

In the event of a partial prepayment of Certificates pursuant to Section 4.01 or 4.03, the foregoing annual mandatory prepayments shall be reduced in equal percentages, as nearly as practicable, provided that the reductions shall be made in multiples of \$5,000. The District shall provide the Trustee with the amended mandatory prepayment schedule calculated as set forth above.

Section 4.03. Prepayment From Net Proceeds of Insurance and Condemnation. The Certificates shall be subject to prepayment prior to their respective stated maturities, as a whole on any date or in part on any Interest Payment Date, in the order of stated maturity as directed by the District in a Written Request of the District provided to the Trustee at least 60 days prior to the prepayment date, or (in the event the District has not directed the order of stated maturity, in inverse order of stated maturity), and by lot within each stated maturity in integral multiples of \$5,000, from prepaid Installment Payments made by the District from Net Proceeds are deposited in the Prepayment Account of the Installment Payment Fund and credited towards prepayment made by the District, upon the terms and conditions of, as provided for in Sections 6.7 and 6.8 of the Installment Purchase Agreement (provided that such prepayment shall occur on the next Interest Payment Date subsequent to such transfer with respect to which timely notice of prepayment can be provided as required hereunder) at a Prepayment Price equal to the principal amount thereof plus accrued interest thereon to the date fixed for prepayment, without premium.

Section 4.04. Selection of Certificates for Prepayment. Whenever less than all the Outstanding Certificates are to be prepaid on any one date pursuant to Sections 4.01 and 4.03 hereof, the Trustee shall select the Certificates to be prepaid among Certificates with different Principal Payment Dates as directed in a Written Request of the District. Whenever less than all the Outstanding Certificates with the same stated Principal Payment Date are to be prepaid on any one date, the Trustee shall select the Certificates with such Principal Payment Date to be prepaid as directed in a Written Request of the District, or at the discretion of the District by lot in any manner that the Trustee deems fair and appropriate, which decision shall be final and binding upon the District and the Owners. The Trustee shall promptly notify the District in writing of the numbers of the Certificates so selected for prepayment on such date. For purposes of such selection, any Certificate may be prepaid in part in Authorized Denominations.

Section 4.05. Notice of Prepayment. When prepayment of Certificates is authorized pursuant to Sections 4.01 and 4.03, the Trustee shall give notice, at the expense of the District, of the prepayment of the Certificates. The notice of prepayment shall specify (a) the Certificates or designated portions thereof (in the case of prepayment of the Certificates in part but not in whole) which are to be prepaid, (b) the date of prepayment, (c) the place or places where the prepayment will be made, including the name and address of any paying agent, (d) the prepayment price, (e) the CUSIP numbers assigned to the Certificates to be prepaid, (f) the numbers of the Certificates to be prepaid in whole or in part and, in the case of any Certificate to be prepaid in part only, the principal evidenced by such Certificate to be prepaid, and (g) the interest rate and stated Principal Payment Date of each Certificate to be prepaid in whole or in part. Such notice of prepayment shall further state that on the specified date there shall become due and payable upon each Certificate or portion thereof being prepaid the prepayment price and that from and after such date interest evidenced thereby shall cease to accrue and be payable. With respect to any notice of prepayment of Certificates pursuant to Sections 4.01 and 4.03 hereof, unless at the time such notice is given the Certificates to be prepaid shall be deemed to have been paid within the meaning of Section 10.01 hereof, such notice shall state that such prepayment is conditional upon receipt by the Trustee, on or prior to the date fixed for such prepayment, of moneys sufficient to pay for the prepayment price of the Certificates to be prepaid, and that if such moneys shall not have been so received said notice shall be of no force and effect and the District shall not be required to prepay such Certificates. If a notice of

prepayment of Certificates contains such a condition and such moneys are not so received, the prepayment of Certificates as described in the conditional notice of prepayment shall not be made and the Trustee shall, within a reasonable time after the date on which such prepayment was to occur, give notice to the persons and in the manner in which the notice of prepayment was given, that such moneys were not so received and that there shall be no prepayment of Certificates pursuant to such notice of prepayment.

The Trustee shall, at least 20 but not more than 60 days prior to any prepayment date, give notice of prepayment to the respective Owners of Certificates designated for prepayment by first-class mail, postage prepaid, at their addresses appearing on the registration books maintained by the Trustee as of the close of business on the day before such notice of prepayment is given.

The actual receipt by the Owner of any notice of such prepayment shall not be a condition precedent to prepayment, and neither failure to receive such notice nor any defect therein shall affect the validity of the proceedings for the prepayment of such Certificates or the cessation of interest evidenced thereby on the date fixed for prepayment.

A certificate by the Trustee that notice of prepayment has been given to Owners as herein provided shall be conclusive as against all parties, and no Owner whose Certificate is called for prepayment may object thereto or object to the cessation of interest evidenced thereby on the fixed prepayment date by any claim or showing that said Owner failed to actually receive such notice of prepayment.

Section 4.06. Partial Prepayment of Certificates. Upon surrender of any Certificate prepaid in part only, the Trustee shall execute and deliver to the Owner thereof a new Certificate or Certificates evidencing the unprepaid principal with respect to the Certificate surrendered.

Section 4.07. Effect of Prepayment. If notice of prepayment has been duly given as aforesaid and moneys for the payment of the prepayment price of the Certificates to be prepaid are held by the Trustee, then on the prepayment date designated in such notice, the Certificates so called for prepayment shall become payable at the prepayment price specified in such notice; and from and after the date so designated, interest evidenced by the Certificates so called for prepayment shall cease to accrue, such Certificates shall cease to be entitled to any benefit or security hereunder and the Owners of such Certificates shall have no rights in respect thereof except to receive payment of the prepayment price thereof. The Trustee shall, upon surrender for payment of any of the Certificates to be prepaid, pay such Certificates at the prepayment price thereof, and such moneys shall be pledged to such payment. All Certificates prepaid pursuant to the provisions of this Article shall be canceled by the Trustee and shall not be redelivered.

ARTICLE V

ASSIGNMENT AND PLEDGE; FUNDS AND ACCOUNTS

Section 5.01. Assignment and Pledge. The Corporation hereby transfers, conveys and assigns to the Trustee, for the benefit of the Owners, all of the Corporation's rights, title and interest in and to the Installment Purchase Agreement (excepting its rights to indemnification

thereunder), including the right to receive Installment Payments, and the interest thereon, from the District and the right to exercise any remedies provided therein in the event of a default by the District thereunder. The Trustee hereby accepts said transfer, conveyance and assignment, solely in its capacity as Trustee, for the benefit of the Owners, subject to the provisions of this Trust Agreement. All Installment Payments, and the interest thereon, shall be paid directly by the District to the Trustee, and if received by the Corporation at any time shall be deposited by the Corporation with the Trustee immediately upon the receipt thereof.

To secure the respective rights of the Owners to the payments required to be made thereto as provided herein, the Corporation and the District hereby irrevocably pledge to the Trustee, for the benefit of the Owners, all of their right, title and interest, if any, in and to all amounts on deposit from time to time in the funds and accounts established hereunder. This pledge shall constitute a first lien on the amounts on deposit in such funds and accounts.

Section 5.02. Installment Payment Fund. (a) The Trustee shall establish and maintain the Installment Payment Fund until all required Installment Payments, and the interest thereon, are paid in full pursuant to the Installment Purchase Agreement and until the first date upon which the Certificates are no longer Outstanding. The Trustee shall deposit in the Installment Payment Fund all Installment Payments, and the interest thereon, paid by the District and received by the Trustee. The moneys in the Installment Payment Fund shall be held in trust by the Trustee for the benefit of the Owners and shall be used and disbursed only for the purposes and uses herein authorized.

(b) The Trustee shall transfer the amounts on deposit in the Installment Payment Fund, at the times and in the manner hereinafter provided, to the following respective accounts within the Installment Payment Fund, each of which the Trustee hereby agrees to establish and maintain (provided the Prepayment Account need not be established in the records of the Trustee until deposit is required to be made to the Prepayment Account) until all required Installment Payments, and the interest thereon, are paid in full pursuant to the Installment Purchase Agreement and until the first date upon which the Certificates are no longer Outstanding. The moneys in each of such accounts shall be held in trust by the Trustee for the benefit of the Owners and shall be used and disbursed only for the purposes and uses herein authorized.

(i) *Interest Account.* The Trustee, on each Interest Payment Date, shall deposit in the Interest Account that amount of moneys representing the interest on the Installment Payments coming due on such Interest Payment Date. Moneys in the Interest Account shall be used by the Trustee for the purpose of paying the interest evidenced by the Certificates when due and payable.

(ii) *Principal Account.* The Trustee, on each Principal Payment Date, shall deposit in the Principal Account that amount of moneys representing the Installment Payments coming due on such Principal Payment Date. Moneys in the Principal Account shall be used by the Trustee for the purpose of paying the principal evidenced by the Certificates when due and payable, including mandatory sinking payments.

(iii) *Prepayment Account.* The Trustee, on the prepayment date specified in the Written Request of the District filed with the Trustee at the time that any prepaid

Installment Payment is paid to the Trustee pursuant to the Installment Purchase Agreement, shall deposit in the Prepayment Account that amount of moneys representing such prepaid Installment Payment, the accrued interest thereon to the prepayment date and any premium payable with respect thereto. The Trustee shall deposit in the Prepayment Account any other amounts made available by the District that the District, pursuant to a Written Request of the District, instructs the Trustee to apply to the prepayment of Certificates pursuant to either Section 4.01 or Section 4.03 hereof. Moneys in the Prepayment Account shall be used by the Trustee for the purpose of paying the interest, premium, if any, and principal evidenced by the Certificates to be prepaid pursuant to either Section 4.01 or Section 4.03 hereof.

Section 5.03. Investment of Moneys. Except as otherwise provided herein, all moneys in any of the funds or accounts established pursuant to this Trust Agreement shall be invested by the Trustee solely in Permitted Investments, as directed by the District pursuant to a Written Request of the District at least two (2) Business Days prior to the making of such investment. Moneys in all funds and accounts held by the Trustee shall be invested in Permitted Investments maturing not later than the date on which it is estimated that such moneys will be required for the purposes specified in this Trust Agreement. Absent timely written direction from the District, the Trustee shall invest any funds held by it in Permitted Investments described in clause (10) of the definition thereof. Permitted Investments that are registerable securities shall be registered in the name of the Trustee. All interest, profits and other income received from the investment of moneys in any fund or account established pursuant to this Trust Agreement shall be retained therein.

Permitted Investments acquired as an investment of moneys in any fund or account established under this Trust Agreement shall be credited to such fund or account. For the purpose of determining the amount in any fund, all Permitted Investments credited to such fund shall be valued by the Trustee at the market value thereof, such valuation to be performed not less frequently than semiannually on or before each May 15 and November 15. The Trustee may use and rely conclusively and without liability upon any generally recognized pricing information service (including brokers and dealers in securities) available to it.

The Trustee or an affiliate may act as principal or agent in the making or disposing of any investment. The Trustee shall sell or present for redemption any Permitted Investment whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund or account to which such Permitted Investment is credited, and the Trustee shall not be liable or responsible for any loss resulting from any investment made or sold pursuant to this Section. For purposes of investment, the Trustee may commingle moneys in any of the funds and accounts established hereunder.

The Trustee is hereby authorized, in making or disposing of any investment permitted by this Section, to deal with itself (in its individual capacity) or with any one or more of its affiliates, whether or not such affiliate is acting as an agent of the Trustee or for any third Person or dealing as principal for its own account.

Section 5.04. Brokerage Confirmations. The Trustee shall furnish the District periodic cash transaction statements which shall include detail for all investment transactions effected by

the Trustee or brokers selected by the District. Upon the District's election and request, the Trustee shall provide the District online access to such statements. The District waives the right to receive brokerage confirmations of securities transactions effected by the Trustee as they occur, to the extent permitted by law. The District further understands that trade confirmations for securities transactions effected by the Trustee will be available upon request and at no additional cost and other trade confirmations may be obtained from the applicable broker

ARTICLE VI

COVENANTS

Section 6.01. Compliance with Trust Agreement. The Trustee will not execute or deliver any Certificates in any manner other than in accordance with the provisions hereof, and the Corporation and the District will not suffer or permit any default by them to occur hereunder, but will faithfully comply with, keep, observe and perform all the agreements, conditions, covenants and terms hereof required to be complied with, kept, observed and performed by them.

Section 6.02. Compliance with Installment Purchase Agreement. The Corporation and the District will faithfully comply with, keep, observe and perform all the agreements, conditions, covenants and terms contained in the Installment Purchase Agreement required to be complied with, kept, observed and performed by them and, together with the Trustee, will enforce the Installment Purchase Agreement against the other party thereto in accordance with its terms. The Corporation shall not consent to the amendment, alteration or modification, in whole or in part, of the Installment Purchase Agreement except: (a) to the extent such amendment, alteration or modification will cure an ambiguity, supply an omission; or cure or correct a defect or inconsistent provision therein; (b) to the extent such amendment, alteration or modification will insert such provisions clarifying matters or questions arising thereunder as are necessary or desirable and are not contrary to or inconsistent with this Trust Agreement; (c) if, in the Opinion of Counsel, delivered to the Trustee such amendment, alteration or modification does not materially adversely affect the rights of the Owners; or (d) with the written consent of the Owners of a majority in aggregate principal of the Certificates then Outstanding. Any such written consent shall be obtained in the manner provided herein for amendments to this Trust Agreement. No such amendment, alteration or modification shall be effective unless and until there shall have been filed with the Trustee an Opinion of Counsel stating that such amendment, alteration or modification has been duly and lawfully entered into by the parties thereto, is authorized or permitted by this Trust Agreement, and is valid and binding upon the parties thereto in accordance with its terms and, if applicable, containing the opinion described in the above subclause (c). For purposes of this Trust Agreement, no change or revision of Exhibit B to the Installment Purchase Agreement, made pursuant to the terms thereof, shall constitute an amendment, alteration or modification of the Installment Purchase Agreement.

Section 6.03. Observance of Laws and Regulations. The Corporation and the District will faithfully comply with, keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on them by contract, or prescribed by any law of the United States of America or of the State, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of each and every franchise, right or privilege now owned or hereafter acquired by them, including their right to exist and

carry on their respective businesses, to the end that such franchises, rights and privileges shall be maintained and preserved and shall not become abandoned, forfeited or in any manner impaired.

Section 6.04. Other Liens. None of the Trustee, the Corporation or the District shall create or suffer to be created any pledge of or lien on the amounts on deposit in any of the funds or accounts created hereunder, other than the pledge and lien hereof.

Section 6.05. Prosecution and Defense of Suits. The District will defend against every action, suit or other proceeding at any time brought against the Trustee or any Owner upon any claim arising out of the receipt, deposit or disbursement of any of the Installment Payments, or the interest thereon, or involving the rights of the Trustee or any Owner hereunder; provided, however, that the Trustee or any Owner at its or his election may appear in and defend any such action, suit or other proceeding.

Section 6.06. Accounting Records and Statements. The Trustee will keep proper accounting records in which complete and correct entries shall be made of all transactions made by the Trustee relating to the receipt, deposit and disbursement of the Installment Payments, and the interest thereon, and such accounting records shall be available for inspection by the Corporation and the District at reasonable hours and under reasonable conditions. The Trustee shall not be obligated to provide an accounting for any fund or account that (a) has a balance of \$0.00 and (b) has not had any activity since the last reporting date. The Trustee will, upon written request, make copies of the foregoing available to any Owner (at the expense of such Owner).

Section 6.07. Tax Covenants.

(a) **Special Definitions.** When used in this Section, the following terms shall have the following meanings:

“*Computation Date*” has the meaning set forth in section 1.148-1(b) of the Tax Regulations.

“*Computation Period*” means, initially, that period commencing on the date of the execution and delivery of the Certificates and concluding on the initial Computation Date and, thereafter, each period commencing on the day next following a Computation Date and concluding on the immediately succeeding Computation Date.

“*Gross Proceeds*” of any issue of governmental obligations means any proceeds as defined in section 1.148-1(b) of the Tax Regulations (referring to sales, investment and transferred proceeds) of that issue, and any replacement proceeds as defined in section 1.148-1(c) of the Tax Regulations, of that issue.

“*Investment*” has the meaning set forth in section 1.148-1(b) of the Tax Regulations.

“*Nonpurpose Investment*” means any investment property, as defined in section 148(b) of the Code, in which Gross Proceeds of an issue are invested and that is not acquired to carry out the governmental purposes of that issue.

“*Opinion of Special Counsel*” means a written opinion of Norton Rose Fulbright US LLP or any other counsel of recognized national standing in the field of law relating to municipal bonds, appointed and paid by the District.

“*Prior Issue*” shall refer to the Prior Obligations (but in the case of any of the foregoing executed and delivered for multiple purposes, only to the portion thereof allocable pursuant to section 1.148-9(h)(4) of the Tax Regulations to other than refunding purposes).

“*Proceeds*,” with respect to an issue of governmental obligations, has the meaning set forth in has the meaning set forth in section 1.148-1(b) of the Tax Regulations (referring to sales, investment and transferred proceeds, but not replacement proceeds).

“*Rebate Amount*” has the meaning set forth in section 1.148-1(b) of the Tax Regulations.

“*Special Counsel*” means Norton Rose Fulbright US LLP or any other counsel of recognized national standing in the field of law relating to municipal bonds, appointed and paid by the District.

“*Tax Regulations*” means the United States Treasury Regulations promulgated pursuant to sections 103 and 141 through 150 of the Code.

“*Yield*” of (i) any Investment has the meaning set forth in section 1.148-5 of the Tax Regulations and (ii) in respect of the Certificates has the meaning set forth in section 1.148-4 of the Tax Regulations.

(a) Exclusion of Interest from Gross Income. The District will take all actions necessary to establish and maintain the exclusion pursuant to section 103(a) of the Code of interest component of the Installment Payments from the gross income of the owners thereof for federal income tax purposes, and will not use, permit the use of, or omit to use Gross Proceeds of the Certificates or any other amounts (or any property the acquisition, construction or improvement of which is to be refinanced directly or indirectly with Gross Proceeds) in a manner that if made or omitted, respectively, would cause the interest component of the Installment Payments to fail to be excluded pursuant to section 103(a) of the Code from the gross income of the owners thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the Trustee receives an Opinion of Special Counsel to the effect that failure to comply with such covenant will not adversely affect the exclusion pursuant to section 103(a) of the Code of the interest component of the Installment Payments from the gross income of the owner thereof, the District shall comply with this covenant and each of the specific covenants in this Section.

(b) No Private Use or Private Payments. Except as would not cause any Certificate to become a “private activity bond” within the meaning of section 141 of the Code and the Tax Regulations and rulings thereunder, the District shall at all times prior to the payment and cancellation of the last of the Certificates to be retired:

(i) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Certificates and not use or permit the use of such

Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds or the Gross Proceeds of the Prior Issue in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(ii) does not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Certificates or of the Prior Issue, or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the jurisdiction of the District or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(c) No Private Loan. Except as would not cause any Certificate to become a “private activity bond” within the meaning of section 141 of the Code and the Tax Regulations and rulings thereunder, the District shall not use of Gross Proceeds of the Certificates to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be “loaned” to a person or entity if: (i) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction that creates a debt for federal income tax purposes; (ii) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (iii) indirect benefits of such Gross Proceeds, or burdens and benefits of ownership of any property acquired, constructed or improved with such Gross Proceeds, are otherwise transferred in a transaction that is the economic equivalent of a loan. For purposes of this covenant, the District will treat any transaction constituting a loan of Gross Proceeds of the Prior Issue as resulting in a loan of Gross Proceeds of the Certificates.

(d) Not to Invest at Higher Yield. Except as would not cause any Certificate to become an “arbitrage bond” within the meaning of section 148 of the Code and the Tax Regulations and rulings thereunder, the District will not, at any time prior to the final cancellation of the last Certificate to be retired, directly or indirectly invest Gross Proceeds of the Certificates in any Investment, if as a result of that investment the yield of any Investment acquired with Gross Proceeds of the Certificates, whether then held or previously disposed of, would materially exceed the yield of the Certificates within the meaning of said section 148.

(e) Not Federally Guaranteed. Except to the extent such action or failure to act would not pursuant to section 149(b) of the Code and the Tax Regulations and rulings thereunder, adversely affect the exclusion pursuant to section 103(a) of interest with respect to the Certificates from the gross income of the owners thereof for federal income tax purposes, the District will not take or omit to take any action that would cause any Certificate to be “federally guaranteed” within the meaning of section 149(b) of the Code and the Tax Regulations and rulings thereunder.

(f) Information Report. The District will timely file any information necessary to the exclusion pursuant to section 103(a) of the Code of interest with respect to the Certificates

required by section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary of the Treasury may prescribe.

(g) Not to Divert Arbitrage Profits. Except to the extent permitted by section 148 of the Code and the Tax Regulations and rulings thereunder, the District will not at any time prior to the final cancellation of the last of the Certificates to be retired, enter into any transaction that reduces the amount required to be paid to the United States pursuant to section 148(f) of the Code because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the yield on the Certificates not been relevant to either party.

(h) Certificates Satisfy Section 149(g). The District represents that neither the Prior Issue nor the Certificates are or will become "hedge bonds" within the meaning of section 149(g) of the Code. Without limitation of the foregoing, with respect to the Prior Issue, (i)(A) on the date of execution and delivery of that issue the District reasonably expected (based upon its own knowledge and upon representations made by other governmental persons upon the issuance of those obligations) that within the three-year period commencing on such date no less than 85% of the spendable proceeds of that issue would be expended for the governmental purposes thereof and (B) the District believes and represents that at no time has more than 50% of the proceeds of that issue been invested in Nonpurpose Investments having a substantially guaranteed yield for a period of four years or more, and with respect to the application of Proceeds of the Certificates other than for refunding purposes, (ii)(A) the District will not deliver the Certificates unless on the date of the issuance of the Certificates it reasonably expects that within the three-year period commencing on such date of issuance at least 85% of such spendable proceeds of the Certificates will be expended for the governmental purpose of the Certificates and (B) at no time will more than 50% of such spendable proceeds of the Certificates be invested in Nonpurpose Investments having a substantially guaranteed yield for a period of four years or more.

(i) Elections. The District hereby directs and authorizes any Authorized Representative to make elections permitted or required pursuant to the provisions of the Code or the Tax Regulations, as such Authorized Representative (after consultation with Special Counsel) deems necessary or appropriate in connection with the Certificates, in the Tax Certificate (as defined below) or similar or other appropriate certificate, form or document.

(j) Tax Certificate. The District agrees to execute and deliver in connection with the execution and delivery of the Certificates a *Tax Certificate as to Arbitrage and the Provisions of Sections 141-150 of the Internal Revenue Code of 1986*, or similar document containing additional representations and covenants pertaining to the exclusion of interest with respect to the Certificates from the gross income of the owners thereof for federal income tax purposes (the "Tax Certificate"), which representations and covenants are incorporated as though expressly set forth herein.

Section 6.08. Continuing Disclosure. The District will comply with and carry out all of the provisions of the Continuing Disclosure Certificate applicable to it. Notwithstanding any other provision of this Trust Agreement, failure of the District to comply with the Continuing Disclosure Certificate shall not be considered an Event of Default; provided, however, the Trustee at the request of any Participating Underwriter or the Owners of at least 25% aggregate

principal amount of Outstanding Certificates and upon being indemnified to its reasonable satisfaction, shall, or any Owner or Beneficial Owner of Certificates may take such actions as may be necessary and appropriate to compel performance, including seeking mandate or specific performance by court order. The Trustee is authorized and directed to execute the acceptance and acknowledgement of the Continuing Disclosure Certificate.

Section 6.09. Further Assurances. The District will promptly execute and deliver or cause to be executed and delivered all such other and further assurances, documents or instruments and promptly do or cause to be done all such other and further things as may be necessary or reasonably required in order to carry out the purposes and intentions of this Trust Agreement and for preserving and protecting the rights and interests of the Owners.

ARTICLE VII

DEFAULT AND LIMITATIONS OF LIABILITY

Section 7.01. Action upon Event of Default. An Event of Default under the Installment Purchase Agreement shall constitute an Event of Default hereunder. The Trustee may give notice, as assignee of the Corporation, of an Event of Default under the Installment Purchase Agreement to the District, and shall do so if directed to do so by the Owners of not less than 5% of the aggregate principal evidenced by Certificates then Outstanding. In each and every case during the continuance of an Event of Default, the Trustee may and, at the direction of the Owners of not less than a majority of the aggregate principal evidenced by Certificates then Outstanding, shall, upon notice in writing to the District and the Corporation (a) exercise any of the remedies granted to the Corporation under the Installment Purchase Agreement, and (b) take whatever action at law or in equity may appear necessary or desirable to enforce its rights pursuant to this Trust Agreement or the Installment Purchase Agreement or to protect and enforce any of the rights vested in the Trustee or the Owners by this Trust Agreement, the Certificates or the Installment Purchase Agreement, either at law or in equity or in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement or for the enforcement of any other legal or equitable right, including any one or more of the remedies set forth in Section 7.02 hereof.

Section 7.02. Other Remedies of the Trustee. Subject to the provisions of Section 7.01 hereof, the Trustee shall have the right:

(a) by mandamus or other action or proceeding or suit at law or in equity to enforce its rights against the Corporation or the District or any member, director, officer or employee thereof, and to compel the Corporation or the District or any such member, director, officer or employee to perform or carry out its or his or her duties under law and the agreements and covenants required to be performed by it or him or her contained herein;

(b) by suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Trustee; or

(c) by suit in equity upon the happening of any Event of Default hereunder to require the Corporation and the District to account as the trustee of an express trust.

Section 7.03. Non-Waiver. A waiver of any default or breach of duty or contract by the Trustee or the Owners shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Trustee or the Owners to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Trustee or the Owners by law or by this Article may be enforced and exercised from time to time and as often as the Trustee shall deem expedient.

If any action, proceeding or suit to enforce any right or to exercise any remedy is abandoned or determined adversely to the Trustee or any Owner, then subject to any adverse determination, the Trustee, such Owner, the Corporation and the District shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

Section 7.04. Remedies Not Exclusive. Subject to the provisions of Section 7.01 hereof, no remedy herein conferred upon or reserved to the Trustee is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise and may be exercised without exhausting and without regard to any other remedy conferred by any law. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent or subsequent assertion or employment of any other appropriate right or remedy.

Section 7.05. Application of Amounts After Default. All damages or other payments received by the Trustee for the enforcement of any rights and powers of the Trustee under this Article shall be deposited into the Installment Payment Fund and as soon as practicable and thereafter applied:

- (a) to the payment of all amounts due the Trustee under Section 8.03 hereof;
- (b) unless the unpaid Installment Payments, and the interest thereon, shall have become, and shall remain, immediately due and payable pursuant to the Installment Purchase Agreement:
 - (i) to the payment of all amounts then due for interest evidenced by the Certificates, in respect of which, or for the benefit of which, money has been collected (other than Certificates which have become payable prior to such Event of Default and money for the payment of which is held by the Trustee), ratably without preference or priority of any kind, according to the amounts of interest evidenced by such Certificates due and payable; and
 - (ii) to the payment of all amounts then due for principal evidenced by the Certificates, in respect of which, or for the benefit of which, money has been collected (other than Certificates which have become payable prior to such Event of Default and money for the payment of which is held by the Trustee), ratably without preference or

priority of any kind, according to the amounts of principal evidenced by such Certificates due and payable.

(c) if the unpaid Installment Payments, and the interest thereon, shall have become, and shall remain, immediately due and payable pursuant to the Installment Purchase Agreement, to the payment of all amounts then due for principal and interest evidenced by the Certificates and, if the amount available therefor shall not be sufficient to pay in full the whole amount so due and unpaid, then to the payment thereof ratably, without preference or priority of principal over interest, or of interest over principal, or of any installment of interest over any other installment of interest, or of any Certificate over any other Certificate, to the persons entitled thereto without any discrimination or preference.

Section 7.06. Trustee May Enforce Claims Without Possession of Certificates. All rights of action and claims under this Trust Agreement or the Certificates may be prosecuted and enforced by the Trustee without the possession of any of the Certificates or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Owners of the Certificates in respect of which such judgment has been recovered.

Section 7.07. Limitation on Suits. No Owner shall have any right to institute any proceeding, judicial or otherwise, with respect to this Trust Agreement, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless (a) such Owner shall have previously given written notice to the Trustee of a continuing Event of Default hereunder, (b) the Owners of not less than a majority of the aggregate principal evidenced by Certificates then Outstanding shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder, (c) such Owner or Owners shall have afforded to the Trustee indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request, (d) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity shall have failed to institute any such proceedings, and (e) no direction inconsistent with such written request shall have been given to the Trustee during such 60-day period by the Owners of a majority of the aggregate principal evidenced by Certificates then Outstanding; it being understood and intended that no one or more Owners of Certificates shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Trust Agreement to affect, disturb or prejudice the rights of any other Owner of Certificates, or to obtain or seek to obtain priority or preference over any other Owner or to enforce any right under this Trust Agreement, except in the manner herein provided and for the equal and ratable benefit of all the Owners of Certificates.

Section 7.08. No Liability by the Corporation to the Owners. Except as expressly provided herein, the Corporation shall not have any obligation or liability to the Owners with respect to the payment when due of the Installment Payments, and the interest thereon, by the District, or with respect to the performance by the District of the other agreements and covenants required to be performed by it contained in the Installment Purchase Agreement or herein, or with respect to the performance by the Trustee of any right or obligation required to be performed by it contained herein.

Section 7.09. No Liability by the District to the Owners. Except for the payment when due of the Installment Payments, and the interest thereon, and the performance of the other agreements and covenants required to be performed by it contained in the Installment Purchase Agreement or herein, the District shall not have any obligation or liability to the Owners with respect to this Trust Agreement or the preparation, execution, delivery or transfer of the Certificates or the disbursement of the Installment Payments, and the interest thereon, by the Trustee to the Owners, or with respect to the performance by the Trustee of any right or obligation required to be performed by it contained herein.

Section 7.10. No Liability of the Trustee to the Owners. Except as expressly provided herein, the Trustee shall not have any obligation or liability to the Owners with respect to the payment when due of the Installment Payments, and the interest thereon, by the District, or with respect to the performance by the Corporation or the District of the other agreements and covenants required to be performed by them, respectively contained in the Installment Purchase Agreement or herein.

ARTICLE VIII

THE TRUSTEE

Section 8.01. Employment of the Trustee; Duties. The Corporation and the District hereby appoint and employ the Trustee to receive, deposit and disburse the Installment Payments, and the interest thereon, to register, execute, deliver and transfer the Certificates and to perform the other functions contained herein, all in the manner provided herein and subject to the conditions and terms hereof. By executing and delivering this Trust Agreement, the Trustee accepts the appointment and employment hereinabove referred to and accepts the rights and obligations of the Trustee provided herein, subject to the conditions and terms hereof. Other than when an Event of Default hereunder has occurred and is continuing, the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Trust Agreement, and no implied covenants or obligations shall be read into this Trust Agreement against the Trustee. In case an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Trust Agreement, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

Section 8.02. Removal and Resignation of the Trustee. The Corporation and the District may with 30 days prior notice, by an instrument in writing, remove the Trustee initially a party hereto and any successor thereto unless an Event of Default shall have occurred and then be continuing, and shall remove the Trustee initially a party hereto and any successor thereto if at any time (a) requested to do so by an instrument or concurrent instruments in writing signed by the Owners of a majority of the aggregate principal evidenced by the Certificates at the time Outstanding (or their attorneys duly authorized in writing), or (b) the Trustee shall cease to be eligible in accordance with the following sentence, and shall appoint a successor Trustee. The Trustee shall be a national banking association, bank having trust powers or a trust company in good standing in or incorporated under the laws of the United States or any state thereof, having (or if such national banking association, bank or trust company is a member of a bank holding company system, its parent bank holding company shall have) a combined capital and surplus of

at least \$50,000,000, and be subject to supervision or examination by federal or state banking authorities. If such national banking association, bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section the combined capital and surplus of such national banking association, bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

The Trustee may at any time resign by giving written notice of such resignation to the Corporation and the District and by giving notice, by first class mail, postage prepaid, of such resignation to the Owners at their addresses appearing on the registration books maintained by the Trustee. Upon receiving such notice of resignation, the Corporation and the District shall promptly appoint a successor Trustee by an instrument in writing; provided, however, that in the event the District and the Corporation do not appoint a successor Trustee within 30 days following receipt of such notice of resignation, the resigning Trustee may, at the expense of the District, petition the appropriate court having jurisdiction to appoint a successor Trustee. Any resignation or removal of a Trustee and appointment of a successor Trustee shall become effective only upon acceptance of appointment by the successor Trustee. Any successor Trustee appointed under this Trust Agreement shall signify its acceptance of such appointment by executing and delivering to the District and the Corporation and to its predecessor Trustee a written acceptance thereof, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein; but, nevertheless, at the written request of the District or of the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to any property held by it under this Trust Agreement and shall pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth.

Any corporation, association or agency into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, provided that such entity meets the combined capital and surplus requirements of this Section, *ipso facto*, shall be and become successor trustee under this Trust Agreement and vested with all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 8.03. Compensation and Indemnification of the Trustee. The District shall from time to time, subject to any written agreement then in effect with the Trustee, pay the Trustee reasonable compensation for all its services rendered hereunder and reimburse the Trustee for all its reasonable advances and expenditures hereunder, including but not limited to advances to and reasonable fees and reasonable expenses of accountants, agents, appraisers, consultants or other experts, and counsel retained by the Trustee, employed by it in the exercise

and performance of its rights and obligations hereunder. The Trustee may take whatever legal actions are lawfully available to it directly against the Corporation or the District. When the Trustee incurs expenses or renders services after the occurrence of an Event of Default, such expenses and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

Except as otherwise expressly provided herein, no provision of this Trust Agreement shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers hereunder.

The District, to the extent permitted by law, agrees to indemnify and save the Trustee, its directors, officers, employees and agents harmless from and against any costs, expenses, claims and liabilities which it may incur in the exercise and performance of its powers and duties hereunder or any other document related to this Trust Agreement, including but not limited to costs and expenses incurred in defending against any claim or liability, which are not due to its negligence or willful misconduct. The obligations of the District under this Section shall survive the resignation or removal of the Trustee and the termination of this Trust Agreement.

Section 8.04. Protection of the Trustee. The Trustee shall be protected and shall incur no liability in acting or proceeding in good faith upon any affidavit, bond, certificate, consent, notice, request, requisition, resolution, statement, waiver or other paper or document which it shall in good faith believe to be genuine and to have been adopted, executed or delivered by the proper party or pursuant to any of the provisions hereof, and the Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument, but may accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements. The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Trust Agreement at the request or direction of any of the Owners of the Certificates pursuant to this Trust Agreement, unless such Owners shall have offered to the Trustee security or indemnity, reasonably satisfactory to the Trustee, against the reasonable costs, expenses and liabilities which might be incurred by it in compliance with such request or direction. The Trustee may consult with counsel, who may be counsel to the Corporation or the District, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect to any action taken or suffered by it hereunder in good faith in accordance therewith.

The Trustee shall not be responsible for the sufficiency of the Certificates or the Installment Purchase Agreement, or of the assignment made to it hereunder, or for statements made in the preliminary or final official statement relating to the Certificates.

The Trustee shall not be required to take notice or be deemed to have notice of any default or Event of Default hereunder, except failure of any of the payments to be made to the Trustee required to be made hereunder or under the Installment Purchase Agreement, unless the Trustee shall be specifically notified in writing of such default or Event of Default by the District, the Corporation or the Owners of not less than 5% of the aggregate principal evidenced by the Certificates then Outstanding.

Whenever in the administration of its rights and obligations hereunder the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a Written Certificate of the District or a Written Certificate of the Corporation, and such Written Certificate shall be full warrant to the Trustee for any action taken or suffered under the provisions hereof upon the faith thereof, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as it deems reasonable.

The Trustee may buy, sell, own, hold and deal in any of the Certificates and may join in any action which any Owner may be entitled to take with like effect as if the Trustee were not a party hereto. The Trustee, either as principal or agent, may also engage in or be interested in any financial or other transaction with the Corporation or the District, and may act as agent, depository or trustee for any committee or body of Owners or of owners of obligations of the Corporation or the District as freely as if it were not the Trustee hereunder.

The Trustee may, to the extent reasonably necessary, execute any of the trusts or powers hereof and perform any rights and obligations required of it hereunder by or through agents, attorneys or receivers, and shall be entitled to advice of counsel concerning all matters of trust and its rights and obligations hereunder, and the Trustee shall not be answerable for the negligence or misconduct of any such agent, attorney or receiver selected by it with reasonable care; provided, however, that in the event of any negligence or misconduct of any such attorney, agent or receiver, the Trustee shall diligently pursue all remedies of the Trustee against such agent, attorney or receiver. The Trustee shall not be liable for any error of judgment made by it in good faith unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts.

The Trustee shall not be answerable for the exercise of any trusts or powers hereunder or for anything whatsoever in connection with the funds established hereunder, except only for its own willful misconduct, negligence or breach of an obligation hereunder.

The Trustee may, on behalf of the Owners, intervene in any judicial proceeding to which the Corporation or the District is a party and which, in the opinion of the Trustee and its counsel, affects the Certificates or the security therefor, and shall do so if requested in writing by the Owners of at least 5% of the aggregate principal evidenced by Certificates then Outstanding, provided the Trustee shall have no duty to take such action unless it has been indemnified to its reasonable satisfaction against all risk or liability arising from such action.

The Trustee will not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, acts of God or of the public enemy or terrorists, acts of a government, acts of the other parties, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to any project refinanced with the proceeds of the Certificates, malicious mischief,

condemnation, and unusually severe weather or any similar event and/or occurrences beyond the control of the Trustee.

The Trustee shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Trust Agreement and delivered using Electronic Means ("Electronic Means" shall mean the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder); provided, however, that the District shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the District whenever a person is to be added or deleted from the listing. If the District elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee's understanding of such Instructions shall be deemed controlling. The District understands and agrees that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The District shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the District and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the District. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The District agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the District; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

The Trustee shall not be responsible for or accountable to anyone for the subsequent use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof.

The permissive right of the Trustee to do things enumerated in this Trust Agreement shall not be construed as a duty and it shall not be answerable for other than its negligence or willful misconduct.

The Trustee may rely conclusively upon the investment direction of the District as to the suitability and legality of the directed investments.

The Trustee shall have no duty to review, verify or analyze any financial statements furnished to it by the District, and shall hold such financial statements solely as a repository for the Owners. The Trustee shall not be deemed to have notice of any information contained therein or any default or Event of Default that may be disclosed therein in any manner.

ARTICLE IX

AMENDMENT OF OR SUPPLEMENT TO TRUST AGREEMENT

Section 9.01. Amendment or Supplement. This Trust Agreement and the rights and obligations of the Corporation, the District, the Owners and the Trustee hereunder may be amended or supplemented at any time by an amendment hereof or supplement hereto which shall become binding when the prior written consents of the Owners of a majority of the aggregate principal evidenced by the Certificates then Outstanding, exclusive of Certificates disqualified as provided in Section 9.02 hereof, are filed with the Trustee. No such amendment or supplement shall (i) extend the stated Principal Payment Date of any Certificate or reduce the rate of interest evidenced thereby or extend the time of payment of such interest or reduce the amount of principal evidenced thereby or change the prepayment terms and provisions or the provisions regarding delivery of notice of prepayment without the prior written consent of the Owner of each Certificate so affected, (ii) reduce the percentage of Owners whose consent is required for the execution of any amendment hereof or supplement hereto without the prior written consent of the Owners of all Certificates then Outstanding, (iii) modify any of the rights or obligations of the Trustee without the prior written consent of the Trustee, or (iv) amend this Section without the prior written consent of the Owners of all Certificates then Outstanding.

This Trust Agreement and the rights and obligations of the Corporation, the District, the Owners and the Trustee hereunder may also be amended or supplemented at any time by an amendment hereof or supplement hereto which shall become binding upon execution, without the written consents of any Owners, but only to the extent permitted by law and only for any one or more of the following purposes:

(i) to add to the agreements, conditions, covenants and terms required by the Corporation or the District to be observed or performed herein other agreements, conditions, covenants and terms thereafter to be observed or performed by the Corporation or the District, or to surrender any right or power reserved herein to or conferred herein on the Corporation or the District;

(ii) to make such provisions for the purpose of curing any ambiguity or of correcting, curing or supplementing any defective provision contained herein or in regard to questions arising hereunder which the Corporation or the District may deem desirable or necessary and not inconsistent herewith;

(iii) to make such additions, deletions or modifications as may be necessary or appropriate to assure the exclusion from gross income for federal income tax purposes of interest evidenced by the Certificates; or

(iv) for any other reason, provided such amendment or supplement does not adversely affect the rights or interests of the Owners.

Prior to its execution of a supplemental agreement, the Trustee is entitled to receive, at the expense of the District, an opinion of counsel stating that the execution of such amendment is authorized or permitted under this Trust Agreement.

Section 9.02. Disqualified Certificates. Certificates owned or held by or for the account of the District (but excluding Certificates held in any pension or retirement fund of the District) shall not be deemed Outstanding for the purpose of any consent or other action or any calculation of Outstanding Certificates provided in this Article, and shall not be entitled to consent to or take any other action provided in this Article, and the Trustee may adopt appropriate regulations to require each Owner, before his consent provided for herein shall be deemed effective, to reveal if the Certificates as to which such consent is given are disqualified as provided in this Section.

Section 9.03. Endorsement or Replacement of Certificates After Amendment or Supplement. After the effective date of any action taken as hereinabove provided in this Article, the Trustee may determine that the Certificates may bear a notation by endorsement in form approved by the District as to such action, and in that case upon demand of the Owner of any Outstanding Certificate and presentation of such Certificate for such purpose at the Principal Office a suitable notation as to such action shall be made on such Certificate. If the Trustee shall receive an Opinion of Counsel advising that new Certificates modified to conform to such action are necessary, modified Certificates shall be prepared, and in that case upon demand of the Owner of any Outstanding Certificates such new Certificates shall be exchanged at the Principal Office without cost to each Owner for Certificates then Outstanding upon surrender of such Outstanding Certificates.

Section 9.04. Amendment by Mutual Consent. The provisions of this Article shall not prevent any Owner from accepting any amendment as to the particular Certificates owned by such Owner, provided that due notation thereof is made on such Certificates.

ARTICLE X

DEFEASANCE

Section 10.01. Discharge of Certificates and Trust Agreement. (a) If the Trustee shall pay or cause to be paid or there shall otherwise be paid (i) to the Owners of all Outstanding Certificates the interest and principal evidenced thereby at the times and in the manner stipulated herein and therein, and (ii) all other amounts due hereunder and under the Installment Purchase Agreement, then such Owners shall cease to be entitled to the pledge of and lien on the amounts on deposit in the funds and accounts established hereunder, as provided herein, and all agreements and covenants of the Corporation, the District, and the Trustee to such Owners hereunder shall thereupon cease, terminate and become void and shall be discharged and satisfied.

(b) Any Outstanding Certificate shall be deemed to have been paid within the meaning and with the effect expressed in this Section when the whole amount of the principal, premium, if any, and interest evidenced by such Certificate shall have been paid or when (i) in case said Certificate or portion thereof has been selected for prepayment in accordance with Section 4.04 hereof prior to its stated Principal Payment Date, the District shall have given to the Trustee irrevocable instructions to give, in accordance with the provisions of Section 4.05 hereof, notice of prepayment of such Certificate, or portion thereof, (ii) there shall be on deposit with the Trustee, moneys, or Government Obligations, or any combination thereof, the principal of and the interest on which when due, and without any reinvestment thereof, will provide moneys which shall be sufficient to pay when due the principal, premium, if any, and interest evidenced by such Certificate and due and to become due on or prior to the prepayment date or its stated Principal Payment Date, as the case may be, and (iii) in the event the stated Principal Payment Date of such Certificate will not occur, and said Certificate is not to be prepaid, within the next succeeding 90 days, the District shall have given the Trustee irrevocable instructions to give notice, as soon as practicable in the same manner as a notice of prepayment given pursuant to Section 4.05 hereof, to the Owner of such Certificate, or portion thereof, stating that the deposit of moneys or Government Obligations required by clause (ii) of this subsection has been made with the Trustee and that said Certificate, or portion thereof, is deemed to have been paid in accordance with this Section and stating such Principal Payment Date or prepayment date upon which moneys are to be available for the payment of the principal, premium, if any, and interest evidenced by said Certificate, or portion thereof.

Neither the moneys nor the Government Obligations deposited with the Trustee pursuant to this Section nor principal or interest payments on any such Government Obligations shall be withdrawn or used for any purpose other than, and shall be held in trust for and pledged to, the payment of the principal, premium, if any, and interest evidenced by said Certificate, or portions thereof. If payment of less than all of the Certificates is to be provided for in the manner and with the effect expressed in this Section, the Trustee or the District, as applicable, shall select such Certificates, or portions thereof, in the manner specified in Section 4.04 hereof for selection for prepayment of less than all of the Certificates, in the principal amounts designated to the Trustee by the District.

(c) After the payment of all the interest, prepayment premium, if any, and principal evidenced by all Outstanding Certificates and all other amounts due hereunder and under the Installment Purchase Agreement as provided in this Section, the Trustee shall execute and deliver to the Corporation and the District all such instruments as may be necessary or desirable to evidence the discharge and satisfaction of this Trust Agreement, the Trustee shall pay over or deliver to the District all moneys or securities held by it pursuant hereto which are not required for the payment of the interest, prepayment premium, if any, and principal evidenced by such Certificates and all other amounts due hereunder and under the Installment Purchase Agreement.

(d) Prior to any defeasance becoming effective under this Article, the District shall cause to be delivered (i) in the event of a deposit of Government Obligations or cash to be invested, or an advance refunding, the District shall cause to be delivered a verification report or a report of an independent nationally recognized certified public accountant. an executed copy of a report, addressed to the Trustee and the District, in form and in substance acceptable to the District, of a nationally recognized certified public accountant, or firm of such accountants,

verifying that the Government Obligations and cash, if any, satisfy the requirements of clause (ii) of subsection (b) of this Section (a "Verification"), (ii) if such moneys to be deposited with the Trustee will be invested, a copy of the escrow deposit agreement entered into in connection with such defeasance, which escrow deposit agreement shall provide that no substitution of Government Obligations shall be permitted except with other Government Obligations and upon delivery of a new Verification and no reinvestment of Government Obligations shall be permitted except as contemplated by the original Verification or upon delivery of a new Verification, and (iii) a copy of an Opinion of Counsel, dated the date of such defeasance and addressed to the Trustee and the District, in form and in substance acceptable to the District, to the effect that such Certificates have been paid within the meaning and with the effect expressed in this Trust Agreement, and all agreements and covenants of the Corporation, the District and the Trustee to the Owners of such Certificates under this Trust Agreement have ceased, terminated and become void and have been discharged and satisfied.

Section 10.02. Unclaimed Moneys. Any moneys held by the Trustee in trust for the payment and discharge of the interest or principal evidenced by any of the Certificates which remain unclaimed for two years after the date when such interest or principal evidenced by such Certificates have become payable, if such moneys were held by the Trustee at such date, or for two years after the date of deposit of such moneys if deposited with the Trustee after the date when the interest and principal evidenced by such Certificates have become payable, shall be repaid by the Trustee (without liability for interest) to the District as its absolute property free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Owners shall look only to the District for the payment of the interest and principal evidenced by such Certificates.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Benefits of Trust Agreement. Nothing contained herein, expressed or implied, is intended to give to any Person other than the Corporation, the District, the Trustee and the Owners any claim, remedy or right under or pursuant hereto, and any agreement, condition, covenant or term required herein to be observed or performed by or on behalf of the Corporation or the District shall be for the sole and exclusive benefit of the Trustee and the Owners.

Section 11.02. Successor Deemed Included in all References to Predecessor. Whenever the Corporation, the District or the Trustee, or any officer thereof, is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the Corporation, the District or the Trustee, or such officer, and all agreements, conditions, covenants and terms required hereby to be observed or performed by or on behalf of the Corporation, the District or the Trustee, or any officer thereof, shall bind and inure to the benefit of the respective successors thereof whether so expressed or not.

Section 11.03. Execution of Documents by Owners. Any declaration, request or other instrument which is permitted or required herein to be executed by Owners may be in one or

more instruments of similar tenor and may be executed by Owners in person or by their attorneys appointed in writing. The fact and date of the execution by any Owner or his attorney of any declaration, request or other instrument or of any writing appointing such attorney may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state or territory in which he purports to act that the Person signing such declaration, request or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution duly sworn to before such notary public or other officer, or by such other proof as the Trustee may accept which it may deem sufficient. The ownership of any Certificates and the amount, payment date, number and date of owning the same may be proved by the registration books maintained by the Trustee pursuant to the provisions of Section 2.07 hereof. Any declaration, request or other instrument in writing of the Owner of any Certificate shall bind all future Owners of such Certificate with respect to anything done or suffered to be done by the Corporation, the District or the Trustee in good faith and in accordance therewith.

Section 11.04. Waiver of Personal Liability. Notwithstanding anything contained herein to the contrary, no member, officer or employee of the District or the Corporation shall be individually or personally liable for the payment of any moneys, including without limitation, the interest or principal evidenced by the Certificates, but nothing contained herein shall relieve any member, officer or employee of the District or the Corporation from the performance of any official duty provided by any applicable provisions of law, by the Installment Purchase Agreement or hereby.

Section 11.05. Acquisition of Certificates by District. All Certificates acquired by the District, whether by purchase or gift or otherwise, shall be surrendered to the Trustee for cancellation.

Section 11.06. Content of Certificates. Every Written Certificate of the District and every Written Certificate of the Corporation with respect to compliance with any agreement, condition, covenant or term contained herein shall include (a) a statement that the Person making or giving such certificate has read such agreement, condition, covenant or term and the definitions herein relating thereto, (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements contained in such certificate are based, (c) a statement that, in the opinion of the signer, the signer has made or caused to be made such examination or investigation as is necessary to enable the signer to express an informed opinion as to whether or not such agreement, condition, covenant or term has been complied with, and (d) a statement as to whether, in the opinion of the signer, such agreement, condition, covenant or term has been complied with.

Any Written Certificate of the District and any Written Certificate of the Corporation may be based, insofar as it relates to legal matters, upon an Opinion of Counsel, unless the Person making or giving such certificate knows that the Opinion of Counsel with respect to the matters upon which each Person's certificate may be based, as aforesaid, is erroneous, or in the exercise of reasonable care should have known that the same was erroneous. Any Opinion of Counsel may be based, insofar as it relates to factual matters, upon information which is in the possession of the District or the Corporation upon a representation by an officer or officers of the District or the Corporation, as the case may be, unless the counsel executing such Opinion of

Counsel knows that the representation with respect to the matters upon which such counsel's opinion may be based, as aforesaid, is erroneous, or in the exercise of reasonable care should have known that the same was erroneous.

Section 11.07. Funds and Accounts. Any fund or account required to be established and maintained herein by the Trustee may be established and maintained in the accounting records of the Trustee either as an account or a fund, and may, for the purposes of such accounting records, any audits thereof and any reports or statements with respect thereto, be treated either as an account or a fund, but all such records with respect to all such funds and accounts shall at all times be maintained in accordance with sound accounting practice and with due regard for the protection of the security of the Certificates and the rights of the Owners. The Trustee may establish such funds and accounts as it deems necessary to perform its obligations hereunder.

Trustee may commingle any of the moneys held by it hereunder for investment purposes only; provided, however, that the Trustee shall account separately for the moneys in each fund or account established pursuant to this Trust Agreement.

Section 11.08. Article and Section Headings, Gender and References. The singular form of any word used herein, including the terms defined in Section 1.01 hereof, shall include the plural, and vice versa, unless the context otherwise requires. The use herein of a pronoun of any gender shall include correlative words of the other genders. The headings or titles of the several Articles and Sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof. All references herein to "Articles," "Sections," subsections or clauses are to the corresponding Articles, Sections, subsections or clauses hereof, and the words "hereby," "herein," "hereof," "hereto," "herewith," "hereunder" and other words of similar import refer to this Trust Agreement as a whole and not to any particular Article, Section, subsection or clause thereof.

Section 11.09. Partial Invalidity. If any one or more of the agreements, conditions, covenants or terms required herein to be observed or performed by or on the part of the Corporation, the District or the Trustee shall be contrary to law, then such agreement or agreements, such condition or conditions, such covenant or covenants or such term or terms shall be null and void to the extent contrary to law and shall be deemed separable from the remaining agreements, conditions, covenants and terms hereof and shall in no way affect the validity hereof or of the Certificates, and the Owners shall retain all the benefit, protection and security afforded to them under any applicable provisions of law. The Corporation, the District and the Trustee hereby declare that they would have executed this Trust Agreement, and each and every Article, Section, paragraph, subsection, sentence, clause and phrase hereof and would have authorized the execution and delivery of the Certificates pursuant hereto irrespective of the fact that any one or more Articles, Sections, paragraphs, subsections, sentences, clauses or phrases hereof or the application thereof to any Person or circumstance may be held to be unconstitutional, unenforceable or invalid.

Section 11.10. California Law. This Trust Agreement shall be governed by and construed in accordance with the laws of the State.

Section 11.11. Notices. Any written notice, statement, demand, consent, approval, authorization, offer, designation, request or other communication to be given 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 District: Nipomo Community Services District
148 South Wilson Street
Nipomo, CA 93444
Attention: General Manager

If to the Corporation: Nipomo Community Services District Public Facilities Corporation
c/o Nipomo Community Services District
148 South Wilson Street
Nipomo, CA 93444
Attention: Executive Director

If to the Trustee: The Bank of New York Mellon Trust Company, N.A.
333 S. Hope St., Suite 2525
Los Angeles, California 90071
Attention: Corporate Trust
Facsimile: (877) 269-6192

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, e.g. facsimile or telecopier or e-mail (with a PDF attachment, if applicable), upon the sender's receipt of an appropriate 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 11.12. Effective Date. This Trust Agreement shall become effective upon its execution and delivery.

Section 11.13. Execution in Counterparts. This Trust 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 Trust Agreement to be executed by their respective officers thereunto duly authorized, all as of the day and year first written above.

**NIPOMO COMMUNITY SERVICES
DISTRICT PUBLIC FACILITIES
CORPORATION**

By: _____
Executive Director

**NIPOMO COMMUNITY SERVICES
DISTRICT**

By: _____
President

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,
as Trustee**

By: _____
Authorized Officer

EXHIBIT A
FORM OF CERTIFICATE

No. R-__

§

Unless this Certificate is presented by an authorized representative of The Depository Trust Company to the Trustee for registration of transfer, exchange or payment, and any Certificate executed and delivered is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the Registered Owner hereof, Cede & Co., has an interest herein.

UNITED STATES OF AMERICA
STATE OF CALIFORNIA
COUNTY OF SAN LUIS OBISPO

NIPOMO COMMUNITY SERVICES DISTRICT
WASTEWATER REVENUE CERTIFICATE OF PARTICIPATION
SERIES 2012

Evidencing the Direct, Undivided Fractional
Interest of the Owners Thereof in
Installment Payments to Be Made by the
NIPOMO COMMUNITY SERVICES DISTRICT
as the Purchase Price for Certain Property Pursuant to an
Installment Purchase Agreement with the
NIPOMO COMMUNITY SERVICES DISTRICT PUBLIC
FACILITIES CORPORATION

PRINCIPAL PAYMENT DATE	INTEREST RATE	DATED DATE	CUSIP
June 1, 20__		March __, 2022	

REGISTERED OWNER: Cede & Co.

PRINCIPAL AMOUNT: _____ **DOLLARS**

THIS IS TO CERTIFY that the Registered Owner of this Certificate of Participation (this "Certificate"), as identified above, is the owner of a direct, fractional undivided interest in certain installment payments ("Installment Payments"), and the interest thereon, payable under and pursuant to the Installment Purchase Agreement, dated as of March 1, 2022 (the "Installment Purchase Agreement"), by and between the Nipomo Community Services District (the "District"), a community services district organized and existing under the laws of the State of

California, and the Nipomo Community Services District Public Facilities Corporation (the "Corporation"), a nonprofit public benefit corporation organized and existing under the laws of the State of California. Certain of the rights of the Corporation under the Installment Purchase Agreement, including the right to receive the Installment Payments, and the interest thereon, have been assigned without recourse by the Corporation to The Bank of New York Mellon Trust Company, N.A., a national banking association duly organized and existing under the laws of the United States of America, as trustee (the "Trustee") under the Trust Agreement, dated as of March 1, 2022 (the "Trust Agreement"), by and among the Trustee, the District and the Corporation. Capitalized undefined terms used herein shall have the meanings ascribed thereto in the Trust Agreement.

This Certificate is one of the duly authorized Nipomo Community Services District Wastewater Revenue Certificates of Participation, Series 2022 (the "Certificates") evidencing principal in the aggregate amount of \$[principal component], executed pursuant to the terms of the Trust Agreement. The Certificates evidence direct, fractional undivided interests in the Installment Payments, and the interest thereon, payable under the Installment Purchase Agreement. The Certificates are executed and delivered to refinance certain improvements to the wastewater collection, treatment and disposal facilities of the District (the "Wastewater System") and to pay the costs of issuance incurred in connection therewith and to pay certain other related costs.

The Installment Payments, and the interest thereon, are to be paid by the District pursuant to the Installment Purchase Agreement in consideration for the purchase of certain improvements to the Wastewater System and for the other agreements and obligations undertaken by the Corporation under the Installment Purchase Agreement and the Trust Agreement.

The income and revenue received by the District from the operation of the Wastewater System remaining after the payment of maintenance and operation or ownership costs of the Wastewater System (the "Net Revenues") are, pursuant to the Installment Purchase Agreement, pledged to the payment of the Installment Payments, any Parity Obligations and Repayment Obligations with respect to Parity Obligations.

The District may at any time incur Parity Obligations in addition to the Installment Purchase Agreement payable from Net Revenues as provided in the Installment Purchase Agreement on a parity with the Installment Payments, but only subject to the conditions and upon compliance with the procedures set forth in the Installment Purchase Agreement.

The District is not required to advance any moneys derived from any source of income other than Net Revenues and the other funds provided in the Installment Purchase Agreement for the payment of the Installment Payments, and the interest thereon, and other payments required to be made by it under the Installment Purchase Agreement, or for the performance of any agreements or covenants required to be performed by it contained therein. The obligation of the District to pay the Installment Payments, and the interest thereon, and other payments required to be made by it under the Installment Purchase Agreement is a special obligation of the District payable, in the manner provided in the Installment Purchase Agreement, solely from such Net Revenues and other funds provided for therein, and does not constitute a debt of the District or of

the State of California, or of any political subdivision thereof, in contravention of any constitutional or statutory debt limitation or restriction.

Reference is hereby made to the Installment Purchase Agreement and to the Trust Agreement and any and all amendments thereof and supplements thereto for a description of the terms under which the District's obligation to pay the Installment Payments, and the interest thereon, is incurred, the Certificates are executed and delivered, the provisions with regard to the nature and extent of the Net Revenues, and the rights of the Owners of the Certificates. All of the terms of the Installment Purchase Agreement and the Trust Agreement are hereby incorporated herein. The Trust Agreement constitutes a contract among the District, the Corporation and the Trustee for the benefit of the Owners of the Certificates, to all the provisions of which the Owner of this Certificate, by acceptance hereof, agrees and consents.

The Registered Owner of this Certificate is entitled to receive, subject to the terms of the Trust Agreement and any right of prepayment as provided herein or therein, on the Principal Payment Date set forth above, upon presentation and surrender of this Certificate at the principal corporate trust office of the Trustee in Los Angeles, California (the "Principal Office"), the Principal Amount specified above, evidencing the Owner's interest in the Installment Payments coming due on the Principal Payment Date, and to receive on June 1 and December 1 of each year, commencing on [June 1, 2022] (each an "Interest Payment Date"), interest accrued thereon at the Interest Rate specified above, computed on the basis of a 360-day year consisting of twelve 30-day months, until said Principal Amount is paid in full, evidencing the Registered Owner's interest in the interest evidenced by the Installment Payments coming due on each of said dates.

This Certificate shall evidence interest from the Interest Payment Date next preceding its date of execution to which interest has been paid in full, unless such date of execution shall be after the 15th day of the month next preceding an Interest Payment Date, whether or not such day is a business day (each such date, a "Record Date"), and on or prior to the following Interest Payment Date, in which case this Certificate shall evidence interest from such Interest Payment Date, or unless such date of execution shall be on or prior to the first Record Date, in which case this Certificate shall evidence interest from the Dated Date specified above. Notwithstanding the foregoing, if, as shown by the records of the Trustee, interest evidenced by the Certificates shall be in default, this Certificate shall evidence interest from the last Interest Payment Date to which interest has been paid in full or duly provided for.

Payments of interest evidenced by the Certificates shall be made to the Owners thereof (as determined at the close of business on the Record Date next preceding the related Interest Payment Date) by check or draft of the Trustee mailed to the address of each such Owner as it appears on the registration books maintained by the Trustee pursuant to the Trust Agreement, or to such other address as may be furnished in writing to the Trustee by such Owner. Payment of principal and prepayment premium, if any, evidenced by the Certificates, on their stated principal payment dates or on prepayment in whole or in part prior thereto, shall be made only upon presentation and surrender of the Certificates at the Principal Office. All such amounts are payable in lawful money of the United States of America.

The Certificates are authorized to be executed and delivered in the form of fully registered certificates in denominations of \$5,000 or any integral multiple thereof ("Authorized Denominations").

This Certificate may be transferred or exchanged by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Principal Office, but only in the manner, subject to the limitations and upon payment of the charges provided in the Trust Agreement.

The Trustee shall not be required to transfer or exchange any Certificate during the period commencing on the date five days before the date of selection of Certificates for prepayment and ending on the date of mailing of notice of such prepayment, nor shall the Trustee be required to transfer or exchange any Certificate or portion thereof selected for prepayment from and after the date of mailing the notice of prepayment thereof.

The Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, whether or not the principal or interest evidenced by this Certificate shall be overdue, and the Trustee shall not be affected by any knowledge or notice to the contrary; and payment of the principal and interest evidenced by this Certificate shall be made only to such Registered Owner, which payments shall be valid and effectual to satisfy and discharge the liability evidenced by this Certificate to the extent of the sum or sums so paid.

The Certificates are subject to prepayment prior to their stated Principal Payment Dates in accordance with the Trust Agreement.

To the extent and in the manner permitted by the terms of the Trust Agreement, the Trust Agreement and the rights and obligations of the Corporation, the District, the Owners and the Trustee under the Trust Agreement may be amended or supplemented at any time by an amendment or supplement thereto which shall become binding when the prior written consents of the Owners of a majority of the aggregate principal evidenced by the Certificates then outstanding, exclusive of Certificates disqualified as provided under the Trust Agreement, are filed with the Trustee. No such supplement or amendment shall (a) extend the stated Principal Payment Date of any Certificate or reduce the rate of interest evidenced thereby or extend the time of payment of such interest or reduce the amount of principal evidenced thereby or change the prepayment terms and provisions or the provisions regarding delivery of notice of prepayment without the prior written consent of the Owner of each Certificate so affected, (b) reduce the percentage of Owners whose consent is required for the execution of any amendment or supplement to the Trust Agreement without the prior written consent of the Owners of all Certificates then outstanding, (c) modify any of the rights or obligations of the Trustee without the prior written consent of the Trustee, or (d) amend the amendment provisions of the Trust Agreement without the prior written consent of the Owners of all Certificates then outstanding.

To the extent and in the manner permitted by the terms of the Trust Agreement, the Trust Agreement and the rights and obligations of the Corporation, the District, the Owners and the Trustee under the Trust Agreement may also be amended or supplemented at any time by an amendment or supplement thereto which shall become binding upon execution, without the

written consents of any Owners, but only to the extent permitted by law and only (a) to add to the agreements, conditions, covenants and terms required by the Corporation or the District to be observed or performed under the Trust Agreement other agreements, conditions, covenants and terms thereafter to be observed or performed by the Corporation or the District, or to surrender any right or power reserved therein to or conferred therein on the Corporation or the District, and which in either case shall not adversely affect the rights or interests of the Owners, (b) to make such provisions for the purpose of curing any ambiguity or of correcting, curing or supplementing any defective provision contained in the Trust Agreement or in regard to questions arising thereunder which the Corporation or the District may deem desirable or necessary and not inconsistent therewith or (c) for any other reason, provided such amendment or supplement does not adversely affect the rights or interests of the Owners.

THE DISTRICT HAS CERTIFIED that all acts, conditions and things required by the statutes of the State of California and by the Trust Agreement to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of this Certificate do exist, have happened and have been performed in regular and due time, form and manner as required by law, and that the Trustee is duly authorized to execute and deliver this Certificate.

IN WITNESS WHEREOF, this Certificate of Participation has been executed by the manual signature of an authorized signatory of the Trustee as of the date set forth below.

Date: _____, 20__

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,**
as Trustee

By: _____
Authorized Officer

ASSIGNMENT

For value received, the undersigned do(es) hereby sell, assign and transfer unto _____ the within-mentioned Certificate and hereby irrevocably constitute(s) and _____ appoint(s) _____ attorney, to transfer the same on the books of the Trustee with full power of substitution in the premises.

Dated: _____

Note: The signature(s) on this Assignment must correspond with the name(s) as written on the face of the within registered Certificate in every particular, without alteration or enlargement or any change whatsoever.

Tax I.D. #: _____

Signature Guaranteed: _____

Note: Signature(s) must be guaranteed by an eligible guarantor.

Note: The signature(s) on this Assignment must correspond with the name(s) as written on the face of the within Certificate in every particular without alteration or enlargement or any change whatsoever.

EXHIBIT B

FORM OF CONSTRUCTION FUND REQUISITION

REQUISITION NO. __ (to be numbered sequentially)

with reference to

[\$principal component]
Nipomo Community Services District
Wastewater Revenue Certificates of Participation
Series 2022

I. The Nipomo Community Services District (the "District") hereby requests The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), pursuant to that certain Trust Agreement, dated as of March 1, 2022 (the "Trust Agreement"), by and among the District, the Nipomo Community Services District Public Facilities Corporation (the "Corporation") and the Trustee, under the terms of which the Nipomo Community Services District Wastewater Revenue Certificates of Participation (the "Certificates") have been executed and delivered, to pay from the moneys in the Construction Fund established pursuant to the Trust Agreement, the amounts shown on Schedule I attached hereto to the parties indicated in Schedule I.

II. The payees, the purposes for which the costs have been incurred, and the amount of the disbursements requested are itemized on Schedule I hereto.

III. Each obligation mentioned in Schedule I hereto has been properly incurred and is a proper charge against the Construction Fund. None of the items for which payment is requested has been reimbursed previously from the Construction Fund.

IV. There has not been filed with or served upon the District or the Corporation a stop notice or any other notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the money payable to the person[s] named on Schedule I hereto which has not been released or will not be released simultaneously with the payment of such obligation, other than liens accruing by mere operation of law.

DATED: _____

NIPOMO COMMUNITY SERVICES DISTRICT

By _____
Title: _____

JANUARY 26, 2022

ITEM E-1

ATTACHMENT 4

INSTALLMENT PURCHASE AGREEMENT

by and between

NIPOMO COMMUNITY SERVICES DISTRICT

and the

NIPOMO COMMUNITY SERVICES DISTRICT PUBLIC FACILITIES CORPORATION

Dated as of March 1, 2022

relating to

[\$[PAR AMOUNT]

NIPOMO COMMUNITY SERVICES DISTRICT
WASTEWATER REVENUE CERTIFICATES OF PARTICIPATION,
SERIES 2022

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INSTALLMENT PURCHASE AGREEMENT

This INSTALLMENT PURCHASE AGREEMENT, made and entered into as of March 1, 2022 (this "Agreement"), by and between the NIPOMO COMMUNITY SERVICES DISTRICT (the "District"), a special district organized and existing under the laws of the State of California, and the NIPOMO COMMUNITY SERVICES DISTRICT PUBLIC FACILITIES CORPORATION (the "Corporation"), a nonprofit public benefit corporation, organized and existing under the laws of the State of California.

WITNESSETH:

WHEREAS, the District owns a wastewater system known as the Town Division system (the "Enterprise") to provide for the collection, treatment and disposal of wastewater; and

WHEREAS, to finance the acquisition, construction and installation of certain improvements to the Enterprise (the "Prior Project"), the District has heretofore purchased the Prior Project from the Corporation, and the Corporation has heretofore sold the Prior Project to the District, for the installment payments (the "Prior Installment Payments") made by the District pursuant to the Installment Sale Agreement, dated as of June 1, 2012, by and between the District and the Corporation;

WHEREAS, to provide the funds necessary to the Prior Project, the District caused the execution and delivery of the Nipomo Community Services District Wastewater Revenue Certificates of Participation, Series 2012 (the "Prior Obligations"), evidencing direct, undivided fractional interests in the Prior Installment Payments;

WHEREAS, the District has determined to refinance the Prior Project by prepaying all of the remaining principal components of the Prior Installment Payments (the "Refunded Installment Payments"), and the interest components thereof to the date of prepayment, thereby causing to be prepaid all of the currently outstanding Prior Obligations, in the aggregate principal amount of \$8,325,000;

WHEREAS, the District has determined to finance the acquisition, construction and installation of certain additional improvements to the Enterprise (the "2022 Project");

WHEREAS, to provide the funds necessary to prepay all of the Refunded Installment Payments and to finance the 2022 Project, the District and the Corporation desire that the Corporation purchase the Prior Project from the District and the District sell the Prior Project to the Corporation, and that the District then purchase the Project (as defined herein) from the Corporation and the Corporation sell the Project to the District, pursuant to this Agreement under which the District will agree to make installment payments (the "Installment Payments") to the Corporation, payable from net revenues of the Enterprise; and

WHEREAS, the Corporation proposes to assign without recourse certain of its rights under and pursuant to this Installment Purchase Agreement to The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee");

WHEREAS, in consideration of such assignment and the execution and delivery of the Trust Agreement, dated as of the date hereof, by and among the Trustee, the Corporation and the District, the Trustee has agreed to execute and deliver the Nipomo Community Services District Wastewater Revenue Certificates of Participation, Series 2022 (the "Certificates"), evidencing direct, undivided fractional interests in the Installment Payments, and the interest thereon, payable hereunder; and

WHEREAS, a portion of the proceeds of the Certificates will be used to prepay the Refunded Installment Payments; and

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 delivery of this Installment Purchase 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 Installment Purchase Agreement;

NOW, THEREFOR, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE PARTIES AGREE AS FOLLOWS:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. Except as provided in Section 1.2 hereof or unless the context otherwise requires, the terms defined in this Section shall for all purposes hereof and of any amendment hereof or supplement hereto and of any report or other document mentioned herein or therein have the meanings defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein:

"Additional Payments" has the meaning ascribed thereto in Section 4.3 of this Agreement.

"Annual Debt Service" means, for any Fiscal Year, the sum of (1) the interest component of the Installment Payments and the interest payable on all Parity Obligations during such Fiscal Year, assuming that all such Installment Payments are paid as scheduled and all such Parity Obligations are retired as scheduled, plus (2) the principal component of the Installment Payments and the principal amount allocable to all Parity Obligations in such Fiscal Year, provided that the following adjustments shall be made to the foregoing amounts in the calculation of Annual Debt Service:

- (a) with respect to any Parity Obligations bearing or comprising interest at other than a fixed interest rate, the rate of interest used to calculate Annual Debt Service shall be (i) with respect to such Parity Obligations then outstanding, 110% of the greater of (A) the daily average interest rate on such Parity Obligations during the 12 calendar months next preceding the date of such calculation (or the portion of such 12 calendar months that such Parity Obligations have borne interest), or (B) the most recent effective interest rate on such Parity Obligations prior to the date of such calculation, or (ii) with respect to Parity

Obligations then proposed to be issued, the then current The Bond Buyer Revenue Bond Index for a maturity comparable to the maturity of the applicable Parity Obligations (or if such index is no longer published, such other published similar index as shall be selected by the District);

(b) with respect to any issue or series of Parity Obligations having 25% or more of the aggregate principal amount thereof due in any one Fiscal Year, Annual Debt Service shall be calculated as if the interest on and principal of the Parity Obligations of such issue or series were being paid in substantially equal annual amounts over the term of such Parity Obligations; provided, however that the full amount of scheduled payments of interest and principal of such Parity Obligations shall be included in Annual Debt Service if the date of calculation is within 24 months of the date on which such 25% or more of aggregate principal amount becomes due;

(c) with respect to any Parity Obligations or portions thereof bearing no interest but which are sold at a discount and which discount accretes with respect to such Parity Obligations or portions thereof, such accreted discount shall be treated as due when scheduled to be paid;

(d) Annual Debt Service shall not include interest on any Parity Obligations which is to be paid from amounts constituting capitalized interest;

(e) if an interest rate swap agreement is in effect with respect to, and is payable on a parity with, any Parity Obligations, no amounts payable under such interest rate swap agreement in addition to debt service payable with respect to such Parity Obligations shall be included in the calculation of Annual Debt Service unless, in the applicable Fiscal Year, the sum of (i) the interest payable on such Parity Obligations, plus (ii) the amounts payable by the District under such interest rate swap agreement, less (iii) the amounts receivable by the District under such interest rate swap agreement, is greater than the interest payable on such Parity Obligations, in which case the net amount of payments to be made by the District under such interest rate swap agreement that exceed the interest to be paid on such Parity Obligations shall be included in such calculation, and for this purpose, the variable amount under any such interest rate swap agreement shall be determined in accordance with the procedure set forth in subparagraph (a) of this definition; and

(f) Repayment Obligations payable on a parity with the Installment Payments or any Parity Obligations shall be deemed to be payable at the scheduled amount due under such Repayment Obligation, and, for this purpose, the variable interest amount included in any such Repayment Obligation shall be determined in accordance with the procedure set forth in subparagraph (a) of this definition.

“Authorized Corporation Representative” means the President, the Executive Director, the Chief Financial Officer and the Secretary of the Corporation, and any other Person authorized by the Executive Director of the Corporation to act on behalf of the Corporation under or with respect to this Agreement.

“Authorized District Representative” means the President of the Board, General Manager of the District, Finance Director of the District, the Treasurer of the District and any other Person authorized by the General Manager of the District to act on behalf of the District under or with respect to this Agreement.

“Beneficial Owners” means those individuals, partnerships, corporations or other entities for which the Participants have caused the Depository to hold Book-Entry Certificates.

“Board” means the Board of Directors of the District.

“Book-Entry Certificates” means the Certificates registered in the name of the nominee of DTC, or any successor securities depository for the Certificates, as the Owner thereof pursuant to the terms and provisions of Section 2.10 of the Trust Agreement.

“Business Day” means a day other than (a) Saturday or Sunday, (b) a day on which banking institutions in the city in which the Principal Office is located are authorized or required by law to be closed, and (c) a day on which the New York Stock Exchange is authorized or obligated by law or executive order to be closed.

“Certificate of an Independent Consultant” means an instrument in writing signed by an Independent Consultant.

“Certificates” means the Nipomo Community Services District Wastewater Revenue Certificates of Participation, Series 2022, executed and delivered by the Trustee pursuant hereto, which are certificates of participation, evidencing direct, undivided fractional interests in the Installment Purchase Agreement and the related Installment Payments, and the interest thereon.

“Closing Date” means March __, 2022.

“Code” means the Internal Revenue Code of 1986.

“Continuing Disclosure Certificate” means the Continuing Disclosure Certificate, dated as of the Closing Date, by the District, as originally executed and as it may from time to time be amended in accordance with the terms thereof.

“Corporation” means the Nipomo Community Services District Public Facilities Corporation, a nonprofit public benefit corporation organized and existing under the laws of the State, and any successor thereto.

“Depository” means the securities depository acting as Depository pursuant to Section 2.10 of the Trust Agreement.

“District” means the Nipomo Community Services District, a special district organized and existing under the laws of the State, and any successor thereto.

“DTC” means The Depository Trust Company, New York, New York and its successors.

“Enterprise” means the Town Division wastewater system of the District, including all facilities, properties and improvements at any time owned, controlled or operated by the District under the Town Division wastewater system for the treatment of wastewater and any necessary lands, rights, entitlements and other property useful in connection therewith, together with all extensions thereof and improvements thereto at any time acquired, constructed or installed by the District, including the Project, and after consolidation with the Blacklake wastewater system, the entire wastewater system of the District.

“Event of Default” shall have the meaning set forth in Section 8.1 hereof.

“Fiscal Year” means the period beginning on July 1 of each year and ending on June 30 of the next succeeding year, or any other twelve-month period selected and designated as the official Fiscal Year of the District.

“Generally Accepted Accounting Principles” means the uniform accounting and reporting procedures set forth in publications of the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor.

“Government Obligations” means any of the following which are noncallable by the issuer thereof except to the extent not permitted by the laws of the State as an investment for the moneys to be invested therein at the time of investment:

(i) (a) direct general obligations of the United States of America, (b) obligations the payment of the principal of and interest on which are unconditionally guaranteed as to the full and timely payment by the United States of America, or (c) any fund or other pooling arrangement whose assets consist exclusively of the obligations listed in clause (a) or (b) of this clause (i) and which is rated at least “P-1” by Moody’s; provided that, such obligations shall not include unit investment trusts or mutual fund obligations;

(ii) advance refunded tax-exempt obligations that (a) are rated by Moody’s and S&P, (b) are secured by obligations specified in clause (i), (c) are tax-exempt because they are secured by obligations specified in clause (i), and (d) have the same ratings as the obligations specified in clause (i);

(iii) bonds, debentures or notes issued by any of the following federal agencies: Federal Farm Credit Bank, Federal Home Loan Mortgage Corporation or Fannie Mae; provided, that such bonds, debentures or notes shall be the senior obligations of such agencies (including participation certificates) and have the same ratings by Moody’s and S&P as the obligations specified in clause (i); and

(iv) bonds, debentures or notes issued by any Federal agency hereafter created by an act of Congress, the payment of the principal of and interest on which are unconditionally guaranteed by the United States of America as to the full and timely payment; provided, that, such obligations shall not include unit investment trusts or mutual fund obligations.

“Gross Revenues” means (i) all income, user fees, connection fees, capacity charges and income, transaction revenues, and all revenues secured or collected from or arising out of the use, capital improvement or operation of the Enterprise or arising from the Enterprise, including, without limitation, all charges, rentals and fees required to be paid for services as permitted or required by law, resolution or order, to the District for operation of the Enterprise, (ii) other moneys deposited in the Sewer Fund by the District for the purpose of meeting any covenants under the Agreement, (iii) any earnings and income derived from the investment of any of the foregoing (A) that is credited by the District to the Sewer Fund or (B) to the extent that the use of such earnings and income is limited under law to the Enterprise, and (iv) income from the disposition of any portion of the Enterprise; except “Gross Revenues” do not include (w) any proceeds of taxes, *ad valorem* assessments, or benefit assessments, (x) grant, loan or bond proceeds restricted in use to specific capital improvements not consisting of the Project, (y) that portion of the annexation fees collected as deposits on behalf of and payable to other governmental agencies as required by law, and (z) any customer deposits or other advances subject to refund until such customer deposits or advances become the property of the District.

“Independent Certified Public Accountant” means any firm of certified public accountants appointed by the District, which is independent of the District and the Corporation pursuant to the Statement on Auditing Standards No. 1 of the American Institute of Certified Public Accountants.

“Independent Consultant” means any registered engineer or firm of registered engineers of national reputation generally recognized to be well qualified in engineering matters relating to wastewater systems, or any other financial consultant or firm of financial consultants (including an Independent Certified Public Accountant) generally recognized to be well qualified in matter relating to wastewater systems, appointed and paid by the District, and who or each of whom –

- (a) is in fact independent and not under the domination of the District;
- (b) does not have a substantial financial interest, direct or indirect, in the operations of the District; and
- (c) is not connected with the District as a director, officer or employee of the District, but may be regularly retained to make reports to the District.

“Installment Payment Date” means five (5) days prior to each Interest Payment Date, or if such day is not a Business Day, then the preceding Business Day.

“Installment Payment Fund” means the fund by that name established in accordance with Section 5.02 of the Trust Agreement.

“Installment Payments” means the Installment Payments required to be made by the District pursuant to Section 4.2 of this Installment Purchase Agreement.

“Installment Purchase Agreement” or **“Agreement”** means this Installment Purchase Agreement, dated as of the date hereof, by and between the District and the Corporation, as originally executed and as it may from time to time be amended in accordance with the provisions thereof.

“Interest Account” means the account by that name within the Installment Payment Fund established in accordance with Section 5.02 of the Trust Agreement.

“Interest Payment Date” means June 1 and December 1 of each year, commencing [June 1, 2022].

“Maximum Annual Debt Service” means, as of any date of calculation, the largest Annual Debt Service becoming due and payable in the Fiscal Year in which the calculation is made or in any subsequent Fiscal Year.

“Moody’s” means Moody’s Investors Service, its successors and assigns, except that if such corporation shall no longer perform the function of a securities rating agency for any reason, the term “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency selected by the District.

“Net Proceeds” means, when used with respect to any casualty insurance or condemnation award, the proceeds from such insurance or condemnation award remaining after payment of all expenses (including attorneys’ fees) incurred in the collection of such proceeds.

“Net Revenues” means, for any period, an amount equal to all of the Gross Revenues received for such period minus the amount required to pay all Operation and Maintenance Costs becoming payable during such period.

“Operation and Maintenance Costs” means the costs and expenses reasonable and necessary to operate and maintain the Enterprise, including but not limited to the costs and expenses to preserve the Enterprise in good repair and working order, including reasonable expenditures for repair and replacement incident to or arising from the Enterprise, the reasonable administrative costs and expenses of the District attributable to operation and maintenance of the Enterprise, and transfers made to other funds of the District for the purpose of paying or reimbursing the payment of Operation and Maintenance Costs, as determined by Generally Accepted Accounting Principles, but excluding (1) noncash items of depreciation, replacement and obsolescence charges or reserves therefore, (2) amortization of intangibles, premiums and discounts, (3) interest expense, (4) amounts paid from other than Gross Revenues of the Enterprise (including but not limited to amounts paid from the proceeds of property taxes and assessments), (5) non-cash expenses attributable to pension plans, other retirement accounts and other post-employment benefits.

“Outstanding,” when used as of any particular time with reference to Certificates, means (subject to the provisions of Section 9.02 of the Trust Agreement) all Certificates except (a) Certificates previously canceled by the Trustee or delivered to the Trustee for cancellation, (b) Certificates paid or deemed to have been paid within the meaning of Section 10.01 of the Trust Agreement, and (c) Certificates in lieu of or in substitution for which other Certificates shall have been executed and delivered by the Trustee pursuant to Section 2.09 of the Trust Agreement.

“Owner” means any Person who shall be the registered owner of any Outstanding Certificate as indicated in the registration books of the Trustee required to be maintained pursuant to Section 2.07 of the Trust Agreement.

“Parity Obligation Payments” means the payments scheduled to be paid by the District under and pursuant to Parity Obligations, which payments are secured by a pledge of Net Revenues on a parity with the Installment Payments as provided in this Agreement.

“Parity Obligations” means all revenue bonds, certificates of participation or notes (including bond anticipation notes and commercial paper) of the District authorized, executed, issued and delivered under and pursuant to applicable law, and all other contracts (including financial contracts) or leases of the District authorized and executed by the District under and pursuant to applicable law, the installment, lease or other payments which are, in accordance with the provisions of the Installment Purchase Agreement, payable from Net Revenues on a parity with the Installment Payments under the Installment Purchase Agreement pursuant to and in accordance with the provisions of Section 5.3 of the Installment Purchase Agreement.

“Participants” means those broker-dealers, banks and other financial institutions from time to time for which the Depository holds Book-Entry Certificates as securities depository.

“Participating Underwriter” has the meaning ascribed thereto in the Continuing Disclosure Certificate.

“Person” means an individual, corporation, limited liability company, firm, association, partnership, trust, or other legal entity or group of entities, including a governmental entity or any agency or political subdivision thereof.

“Prepayment Account” means the account by that name within the Installment Payment Fund established in accordance with Section 5.02 of the Trust Agreement.

“Prepayment Price” means, with respect to any Certificate (or portion thereof), the principal amount with respect to such Certificate (or portion thereof) plus the applicable premium, if any, payable upon prepayment thereof pursuant to the provisions of such Certificate and this Trust Agreement.

“Principal Office” means the Trustee’s principal corporate trust office in Los Angeles, California.

“Prior Obligations” has the meaning ascribed thereto in the recitals hereto.

“Prior Project” has the meaning ascribed thereto in the recitals hereto.

“Project” means, collectively, the Prior Project and the 2022 Project.

“Purchase Price” means the principal components of the Installment Payments plus interest on the unpaid portion of such principal components owed by the District to the Corporation under the terms of the Installment Purchase Agreement as provided in Section 4.1 of this Agreement.

“Rate Stabilization Fund” means the fund by that name referred to in Section 5.4 of this Agreement.

“Refunded Installment Payments” has the meaning ascribed thereto in the recitals hereto.

“Repayment Obligation” means the reimbursement obligation or any other payment obligation of the District under a written agreement between the District and a credit or liquidity provider to reimburse the credit or liquidity provider for amounts paid pursuant to a credit or liquidity facility for the payment of the principal amount or purchase price of and/or interest on any Parity Obligation.

“S&P” means S&P Global Ratings, a Standard & Poor’s Financial Services LLC business, its successors and assigns, except that if such entity shall no longer perform the functions of a securities rating agency for any reason, the term “S&P” shall be deemed to refer to any other nationally recognized securities rating agency selected by the District.

“Sewer Fund” means the fund by that name referred to in Section 5.2 of this Agreement.

“Subordinate Obligations” means the obligations of the District that are secured by a pledge of and payable from Net Revenues on a basis that is junior and subordinate to the payment of the Installment Payments, Parity Obligations and Repayment Obligations.

“Tax Certificate” means the tax certificate described in Section 6.07 of the Trust Agreement.

“Treasury Regulations” means those regulations issued by the United States Department of the Treasury under the Code.

“Trust Agreement” means the Trust Agreement, dated as of March 1, 2022, by and among the Trustee, the Corporation and the District, as originally executed and delivered and as it may from time to time be amended or supplemented in accordance with the provisions thereof.

“Trustee” means The Bank of New York Mellon Trust Company, N.A., a national banking association duly organized and existing under the laws of the United States of America, or any other bank or trust company which may at any time be substituted in its place as provided in Section 8.02 of the Trust Agreement.

“2022 Project” has the meaning ascribed thereto in the recitals hereto.

“Written Certificate” and **“Written Request”** mean (a) with respect to the Corporation, a written certificate or written request, respectively, signed in the name of the Corporation by an Authorized Corporation Representative, and (b) with respect to the District, a written certificate or written request, respectively, signed in the name of the District by an Authorized District Representative. Any such certificate or request may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

Section 1.2. Definitions in Trust Agreement. Except as otherwise herein defined and unless the context otherwise requires, the terms defined in the Trust Agreement shall for all

purposes hereof and of any amendment hereof or supplement hereto and of any report or other document mentioned herein have the meanings defined therein, such definitions to be equally applicable to both the singular and plural forms of any of the terms defined therein. With respect to any defined term which is given a different meaning under this Installment Purchase Agreement than under the Trust Agreement, as used herein it shall have the meaning given herein.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations by the District. The District represents, warrants and certifies as follows:

(a) The District is a community facilities district organized and existing under the laws of the State. The District has full legal right, power and authority to enter into this Agreement and carry out its obligations hereunder, to carry out and consummate all transactions contemplated by this Agreement, and the District has complied with the provisions of all applicable law in all matters relating to such transactions. By proper action, the District has authorized the execution, delivery and due performance of this Agreement.

(b) The District will not take or permit any action to be taken which results in the interest component of the Installment Payments being included in the gross income for purposes of federal income taxation or not being exempt from personal income taxes of the State.

(c) The District has determined that it is necessary and proper for District uses and purposes within the terms of all applicable laws that the District refinance the Prior Project and finance the 2022 Project in the manner provided for in this Agreement.

(d) All acts, conditions and things required by the Constitution and statutes of the State to have been performed, to have happened and to exist precedent to and in connection with the execution and delivery of this Agreement, have been performed, have happened and do exist in regular and due time, form and manner as required by law.

Section 2.2. Representations and Warranties by the Corporation. The Corporation represents and warrants that the Corporation is a nonprofit public benefit corporation in good standing organized and existing under the laws of the State, has full legal right, power and authority to enter into this Agreement and to carry out and consummate all transactions contemplated by this Agreement, and by proper action has authorized the execution, delivery and due performance of this Agreement.

ARTICLE III

PURCHASE AND SALE OF PROJECT; APPOINTMENT OF AGENT

Section 3.1. Purchase and Sale of the Project. In consideration for the Corporation's assistance in refinancing the Prior Project and financing the 2022 Project through the execution and delivery of this Agreement and the Trust Agreement, the Corporation hereby agrees to purchase from the District, and the District agrees to sell to the Corporation, the Prior Project as described in Exhibit A hereto, and the District hereby agrees to purchase from the Corporation, and the Corporation agrees to sell to the District, the Prior Project and the 2022 Project as described in Exhibit A hereto (collectively, the "Project"), at the Purchase Price specified in Section 4.1, and otherwise in the manner and in accordance with the provisions of this Agreement.

Section 3.2. Appointment of District as Agent of the Corporation. The Corporation hereby appoints the District as its agent to carry out all phases of the construction of the 2022 Project pursuant to and in accordance with the provisions hereof and the Trust Agreement. The District hereby accepts such appointment and assumes all rights, liabilities, duties and responsibilities of the Corporation regarding the construction of the 2022 Project. The Corporation, or the District as agent of the Corporation hereunder, shall enter into, administer and enforce all purchase orders or other contracts relating to the construction of the 2022 Project. All contracts for, and all work relating to, the 2022 Project shall be subject to all applicable provisions of law relating to the acquisition, construction, improvement, and equipping of like facilities and property by the District.

Section 3.3. Title. All right, title and interest in each element and component of the Project shall vest in the District immediately upon execution and delivery of this Agreement or, if later, upon the acquisition, construction and acceptance of such element or component.

ARTICLE IV

PURCHASE PRICE OF PROJECT; INSTALLMENT PAYMENTS

Section 4.1. Purchase Price.

(a) The Purchase Price to be paid by the District to the Corporation for the purchase of the Project is the sum of the principal components of the Installment Payments set forth in Exhibit B plus the interest components of the Installment Payments which consist of the sum of the interest to accrue on the unpaid balance of each such principal component from the date hereof over the term hereof at the interest rate set forth in Exhibit B, subject to prepayment as provided in Article VII.

(b) The interest component of the Installment Payments shall be paid by the District as and constitute interest paid on the principal components of the Installment Payments. The interest component shall be computed on the basis of a 360-day year of twelve 30 day months.

Section 4.2. Installment Payments. The District shall, subject to the provisions of Section 10.1, and to any rights of prepayment provided in Article VII, pay the Corporation the

Purchase Price in installments as follows: (i) each principal component of the Installment Payments is payable on the Installment Payment Date preceding the due date for such principal component, set forth in Exhibit B in the amount specified for such due date in Exhibit B; and (ii) the interest components of the Installment Payments are payable on the Installment Payment Date preceding each Interest Payment Date in the amount of accrued interest on the unpaid balance of the principal components of the Installment Payments to the next succeeding Interest Payment Date, at the respective interest rates per annum set forth in Exhibit B. The schedule of the principal and interest components as of the Closing Date are set forth in Exhibit C. Amounts required to be paid by the District to the Corporation pursuant to this Section 4.2 on any Installment Payment Date shall be reduced to the extent of amounts on deposit on such date in the Interest Account of the Installment Payment Fund established under the Trust Agreement. The amounts shown in Exhibits B and C shall automatically be adjusted to account for any prepayment of Installment Payments made by the District pursuant to Article VII and any discharge of Installment Payments pursuant to Article IX.

Each Installment Payment shall be paid to the Corporation in lawful money of the United States of America. In the event the District fails to make any of the payments required to be made by it under this Section, such payment shall continue as an obligation of the District until such amount shall have been fully paid; and the District agrees to pay the same with interest accruing thereon at the highest rate of interest then applicable to the remaining unpaid principal components of the Installment Payments.

The obligation of the District to make the Installment Payments, solely from Net Revenues, is absolute and unconditional, and, until such time as the Purchase Price shall have been paid in full (or provision for the payment thereof shall have been made pursuant to Article IX), the District will not discontinue or suspend any Installment Payment required to be made by it under this Section, whether or not the Enterprise or any part thereof is operating or operable or has been completed, or its use is suspended, interfered with, reduced or curtailed or terminated in whole or in part. This Agreement shall be deemed and construed to be a net contract, and the District shall pay absolutely net during the term hereof the Installment Payments and all other payments required hereunder, and such payments shall be net payments and shall not be subject to deduction, abatement reduction or diminution, whether by offset or otherwise, and shall not be conditional upon the performance or nonperformance by any party of any agreement for any cause whatsoever.

Section 4.3. Additional Payments. In addition to the Installment Payments, the District shall also pay such amounts (“Additional Payments”) as shall be required for the payment of all fees and administrative costs of the Corporation and the Trustee under the Trust Agreement or otherwise relating to the Certificates, including, without limitation, payments required to satisfy the Rebate Requirement, all expenses, compensation and indemnification of the Corporation and the Trustee payable by the District hereunder and under the Trust Agreement, fees of auditors, accountants, attorneys or engineers, and all other necessary administrative costs of the Corporation or charges required to be paid by it to comply with the terms hereof, of the Certificates or of the Trust Agreement. The rights of the Trustee and the obligations of the District under this Section 4.3 shall survive the termination of this Agreement and the resignation and removal of the Trustee.

ARTICLE V

SECURITY

Section 5.1. Pledge of Net Revenues; Parity Pledge. All Net Revenues are hereby irrevocably pledged to the payment of the Installment Payments as provided herein and shall not be used for any other purpose until all Installment Payments have been fully paid or provision has been made for such payment in accordance with Section 9.1. This pledge, together with the pledge of Net Revenues securing all other Parity Obligations, shall, subject to application as permitted herein, constitute a lien on Net Revenues.

Section 5.2. Allocation of Gross Revenues. In order to carry out and effectuate the pledge and lien contained herein, the District agrees and covenants that all Gross Revenues shall be received by the District in trust hereunder and, except for Net Proceeds, shall be deposited when and as received in a special fund designated as the "Sewer Fund," which fund the District has heretofore established and which fund the District agrees and covenants to maintain and to hold separate and apart from other funds until all Installment Payments have been fully paid or provision has been made therefor in accordance with Section 9.1. The District may designate one or more existing funds to satisfy the foregoing requirements. Currently, the Sewer Fund consists of the Town Division sewer fund as accounted for by the District for budget purposes, and after consolidation of the Town Division wastewater system with the Blacklake wastewater system, will include the Blacklake sewer fund. The District may maintain separate accounts within the Sewer Fund. Moneys in the Sewer Fund shall be used and applied by the District as provided in this Agreement.

The District shall, from the moneys in the Sewer Fund, pay all Operation and Maintenance Costs as they become due and payable. All remaining moneys in the Sewer Fund shall be set aside by the District at the following times for the transfer to the following respective special funds in the following order of priority; and all moneys in each of such funds shall be held in trust and shall be applied, used and withdrawn only for the purposes set forth in this Section and, as to funds held under the Trust Agreement, the Trust Agreement.

(a) Installment Payments. Not later than each Installment Payment Date, the District shall, from the moneys in the Sewer Fund, transfer to the Trustee the Installment Payment due and payable on that Installment Payment Date. The District shall also, from the moneys in the Sewer Fund, transfer when due to the applicable trustee for deposit in the respective payment fund, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference, any Parity Obligation Payments in accordance with the provisions of the applicable Parity Obligations.

(b) Parity Obligation Reserve Funds. Moneys on deposit in the Sewer Fund not necessary to make any of the payments required above in (a) for a Fiscal Year may, subject to the limitations herein, be expended by the District to restore any debt service reserve funds for any Parity Obligations to an amount equal to the amount required to be maintained therein.

(c) Surplus. Moneys on deposit in the Sewer Fund not necessary to make any of the payments required above in a Fiscal Year may, subject to the limitations herein, be expended

by the District at any time for any purpose permitted by law, including but not limited to payments with respect to any Subordinate Obligations and deposits to the Rate Stabilization Fund.

Section 5.3. Execution or Incurrence of Parity Obligations. The District may at any time enter into or otherwise incur Parity Obligations in addition to the obligations under this Agreement; provided:

(a) The District is in compliance with all agreements, conditions, covenants and terms contained in this Agreement required to be observed or performed by it, and a Written Certificate of the District to that effect has been filed with the Trustee.

(b) The Net Revenues (excluding capacity charges) for any 12 consecutive months within the last 18 months preceding the date of entry into or incurrence of such Parity Obligations, as shown by a Certificate of an Independent Consultant on file with the Trustee, are equal to at least 125% of the Maximum Annual Debt Service as calculated after the entry into or incurrence of such Parity Obligations; provided that, in the event that all or a portion of such Parity Obligations are to be issued for the purpose of refunding and retiring any Parity Obligations then outstanding, interest and principal payments on the Parity Obligations to be so refunded and retired from the proceeds of such Parity Obligations being issued shall be excluded from the foregoing computation of Maximum Annual Debt Service; and provided further that, the District may at any time enter into or incur Parity Obligations without compliance with the foregoing conditions, if the aggregate Annual Debt Service, during the years which such Parity Obligations are outstanding, will not be increased by reason of the entry into or incurrence of such Parity Obligations.

(i) The District may adjust the foregoing Net Revenues to reflect:

(A) An allowance for increased or decreased Net Revenues arising from any increase or decrease in the rates, fees and charges of the Enterprise which was duly adopted by the Board of the District prior to the date of the entry into or incurrence of such Parity Obligations but which, during all or any part of such Fiscal Year or 12-month period, was not in effect, in an amount equal to the amount by which the Net Revenues would have been increased or decreased if such increase or decrease in rates, fees and charges had been in effect during the whole of such 12-month period;

(B) An allowance for Net Revenues that would have been derived from each new use or user of the Enterprise that, during any part of such Fiscal Year or 12-month period, was not in existence, in an amount equal to 70% of the estimated additional Net Revenues that would have been derived from each such new use or user if it had been in existence for the entire 12-month period.

Nothing contained in this Section shall limit the issuance of any revenue bonds, certificates of participation, notes or other evidences of indebtedness or the entry into of any installment purchase agreement by the District payable from the Net Revenues and secured by a lien and charge on the Net Revenues if, upon the issuance of such revenue bonds or entry into such installment purchase agreement, all of the Installment Payments shall have been fully paid or provision has been made therefor in accordance with Section 9.1.

Nothing contained in this Section shall limit the issuance or incurrence of any Subordinate Obligations.

Section 5.4. Rate Stabilization Fund. The District may, at any time, determine to deposit in a Rate Stabilization Fund, which it may establish in conjunction with the Enterprise, any Net Revenues and any other money received and available to be used for such purpose. The District may at any time withdraw any or all of the money from the Rate Stabilization Fund for inclusion in Net Revenues; provided that any such withdrawal from the Rate Stabilization Fund shall be made not later than 180 days after the end of the Fiscal Year for which the withdrawal from the Rate Stabilization Fund will be included as Net Revenues.

ARTICLE VI

COVENANTS OF THE DISTRICT

Section 6.1. Punctual Payment of Installment Payments and Compliance with this Agreement. The District will punctually pay the Installment Payments, and interest thereon, and other payments required to be made by it hereunder in strict conformity with the terms hereof, and will faithfully observe and perform all the agreements, conditions, covenants and terms contained herein required to be observed and performed by it, will not cause, suffer or permit any default to occur hereunder and will not terminate this Installment Purchase Agreement for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Project, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either or any failure of the Corporation to observe or perform any agreement, condition, covenant or term contained herein required to be observed and performed by it, whether express or implied, or any duty, liability or obligation arising out of or connected herewith or the insolvency, or deemed insolvency, or bankruptcy or liquidation of the Corporation or any *force majeure*, including acts of God, tempest, storm, earthquake, war, rebellion, riot, civil disorder, acts of public enemies, blockade or embargo, strikes, industrial disputes, lock outs, lack of transportation facilities, fire, explosion, or acts or regulations of governmental authorities.

Section 6.2. Legal Existence. The District will use all means legally available to maintain its existence.

Section 6.3. Protection of Security and Rights. The District will preserve and protect the security hereof and the rights of the Trustee, as assignee of the Corporation, to the Installment Payments, and interest thereon, and other payments required to be made by the District hereunder and will warrant and defend such rights against all claims and demands of all persons.

Section 6.4. Against Encumbrances. The District will not hereafter mortgage or otherwise encumber, pledge or place any charge or lien upon Gross Revenues except as provided herein. The District will not hereafter mortgage or otherwise encumber, pledge or place any lien or charge upon any of the Net Revenues on a parity with the pledge securing the payment of the Installment Payments, except for Parity Obligations as provided herein. The District may at any time issue Subordinate Obligations.

Section 6.5. Against Sale or Other Disposition of the Enterprise. The District will not sell or otherwise dispose of the Enterprise or any part thereof essential to the proper operation of the Enterprise or to the maintenance of the Net Revenues, unless the Installment Payments have been fully paid or provision has been made therefor in accordance with Section 9.1. The District will not enter into any lease or agreement which impairs the operation of the Enterprise or any part thereof necessary to secure adequate Net Revenues for the payment of the Installment Payments and all Parity Obligations, or which would otherwise impair the rights of the Owners with respect to the Net Revenues or the operation of the Enterprise.

Any real or personal property that has become nonoperative or that is not needed for the efficient and proper operation of the Enterprise, or any material or equipment that has become worn out, may be sold if such sale will not impair the ability of the District to pay the Installment Payments and if the proceeds of such sale are deposited in the Sewer Fund. Nothing herein shall restrict the ability of the District to sell any portion of the Enterprise if such portion is immediately repurchased by the District and if such arrangement cannot by its terms result in the purchaser of such portion of the Enterprise exercising any remedy that would deprive the District of or otherwise interfere with its right to own and operate such portion of the Enterprise.

Section 6.6. Maintenance and Operation of Enterprise. The District will maintain and preserve the Enterprise in good repair and working order at all times and will operate the Enterprise in an efficient and economical manner.

Section 6.7. Insurance.

(a) To the extent such insurance is available for reasonable premiums from a reputable insurance company, the District will procure and maintain at all times insurance on the Enterprise against such risks (including accident to or destruction of the Enterprise) and in such amounts as are usually insured in connection with operations in California similar to the Enterprise; provided, that such insurance coverage may be satisfied under a self-insurance program.

(b) The District shall procure and maintain or cause to be procured and maintained public liability insurance covering claims against the District (including its city council, officers and employees) for bodily injury or death, or damage to property occasioned by reason of the District's operations, including any use of the Enterprise, and such insurance shall afford protection in such amounts as are usually covered in connection with operations in California similar to the Enterprise. Such insurance coverage may also be satisfied under a self-insurance program.

(c) If all or any part of the Enterprise shall be damaged or destroyed, the Net Proceeds realized by the District as a result thereof shall be deposited by the District with the Trustee in a special fund which the Trustee shall establish as needed in trust and applied by the District to the cost of acquiring and constructing repairs, replacements, or improvements to the Enterprise if (i) the District first secures and files with the Trustee a Written Certificate of the District showing (A) the loss in annual Gross Revenues, if any, suffered, or to be suffered by the District by reason of such damage or destruction, (B) a general description of the repairs, replacements, or improvements to the Enterprise then proposed to be acquired and constructed by

the District from such proceeds, and (C) an estimate of the Gross Revenues to be derived after the completions of such repairs, replacements, or improvements; and (ii) the Trustee has been furnished a Written Certificate of the District, certifying that the Gross Revenues after such repair, replacement, or improvement of the Enterprise will sufficiently offset on a timely basis the loss of Gross Revenues resulting from such damage or destruction so that the ability of the District to pay all Installment Payments and all Parity Obligations when due will not be substantially impaired, and such Written Certificate of the District shall be final and conclusive, and any balance of such proceeds not required by the District for such purpose shall be deposited in the Sewer Fund and applied as provided in Section 5.2; provided that, if the foregoing conditions are not met, then such proceeds shall be deposited with the Trustee and applied to make Installment Payments and Parity Obligation Payments as they become due ratably without any discrimination or preference; and provided further that the foregoing procedures for the application of Net Proceeds consisting of insurance payments shall be subject to any similar provisions for Parity Obligations on a pro rata basis.

If such damage or destruction has had no effect, or at most an immaterial effect, upon the Gross Revenues and the security of the Installment Payment and all Parity Obligations, and a Written Certificate of the District to such effect has been filed with the Trustee, then the District shall deposit such proceeds in the Sewer Fund, to be applied as provided in Section 5.2.

Section 6.8. Eminent Domain Proceeds. If all or any part of the Enterprise shall be taken by eminent domain proceedings, the Net Proceeds realized by the District therefrom shall be deposited by the District with the Trustee in a special fund which the Trustee shall establish as needed in trust and applied by the District to the cost of acquiring and constructing improvements to the Enterprise if (a) the District first secures and files with the Trustee a Written Certificate of the District showing (i) the loss in annual Gross Revenues, if any, suffered, or to be suffered, by the District by reason of such eminent domain proceedings, (ii) a general description of the improvements to the Enterprise then proposed to be acquired and constructed by the District from such proceeds, and (iii) an estimate of the additional Gross Revenues to be derived from such improvements; and (b) the Trustee has been furnished a Written Certificate of the District, certifying that such additional Gross Revenues will sufficiently offset on a timely basis the loss of Gross Revenues resulting from such eminent domain proceedings so that the ability of the District to pay the Installment Payments and all Parity Obligations when due will not be substantially impaired, and such Written Certificate of the District shall be final and conclusive, and any balance of such proceeds not required by the District for such purpose shall be deposited in the Sewer Fund and applied as provided in Section 5.2, provided that, if the foregoing conditions are not met, then such proceeds shall be deposited with the Trustee and applied to make Installment Payments and Parity Obligation Payments, as they become due, ratably without any discrimination or preference; and provided further that the foregoing procedures for the application of Net Proceeds consisting of awards under eminent domain proceedings shall be subject to any similar provisions for Parity Obligations on a pro rata basis.

If such eminent domain proceedings have had no effect, or at most an immaterial effect, upon the Gross Revenues and the security of the Installment Payments and all Parity Obligations, and a Written Certificate of the District to such effect has been filed with the Trustee, then the District shall deposit such proceeds in the Sewer Fund, to be applied as provided in Section 5.2.

Section 6.9. Amounts of Rates, Fees and Charges.

(a) The District will, at all times until all Installment Payments have been fully paid or provision has been made therefor in accordance with Section 9.1, fix, prescribe and collect rates, fees and charges for the services and facilities of the Enterprise during each Fiscal Year so as to yield Gross Revenues at least sufficient, after making reasonable allowances for contingencies and errors in the estimates, to pay the following amounts in the following order of priority:

(i) All anticipated expenses for the Operation and Maintenance Costs of the Enterprise for such Fiscal Year;

(ii) The Installment Payments, all other Parity Obligation Payments, and all Subordinate Obligation Payments as they become due and payable;

(iii) All payments required for compliance with the terms of any Parity Obligations requiring restoration of a debt service reserve fund to the amount required to be maintained therein;

(iv) All payments required for compliance with the terms of any Subordinate Obligations requiring restoration of a debt service reserve fund to the amount required to be maintained therein; and

(v) All payments to meet any other obligations of the District which are charges, liens or encumbrances upon, or payable from, the Gross Revenues.

(b) In addition to the requirements of the foregoing subsection (a) of this Section, the District will, at all times until all Installment Payments have been fully paid or provision has been made therefor in accordance with Section 9.1, fix, prescribe and collect rates, fees and charges and manage the operation of the Enterprise for each Fiscal Year so as to yield Net Revenues (excluding capacity charges) during such Fiscal Year, (i) equal to at least 125% of the Annual Debt Service in such Fiscal Year, and (ii) equal to at least 100% in such Fiscal Year of (A) Annual Debt Service plus (B) annual debt service for any other Obligations.

The District may make or permit to be made adjustments from time to time in such rates, fees and charges and may make or permit to be made such classification thereof as it deems necessary, but shall not reduce or permit to be reduced such rates, fees and charges below those then in effect unless the Gross Revenues from such reduced rates, fees and charges will at all times be sufficient to meet the requirements of this Section.

Section 6.10. Enforcement of and Performance Under Contracts. The District shall enforce all material provisions of any contracts to which it is a party, an assignee, successor in interest to a party or third-party beneficiary, in any case where such contracts provide for material payments or services to be rendered to the Enterprise. Further, the District will comply with, keep, observe and perform all material agreements, conditions, covenants and terms, express or implied, required to be performed by it, contained in all contracts affecting or involving the Enterprise, to the extent that the District is a party thereto. The District hereby approves the Trust Agreement and shall comply with the provisions thereunder applicable to it.

Section 6.11. Collection of Charges, Fees and Rates. The District will have in effect at all times rules and regulations requiring each user of the Enterprise to pay the applicable charges, fees and rates and providing for the billing thereof and for a due date and a delinquency date for each bill. In each case where such bill remains unpaid in whole or in part after it becomes delinquent, the District will enforce the collection procedures contained in such rules and regulations.

Section 6.12. No Free Service. The District will not permit any part of the Enterprise or any facility thereof to be used or taken advantage of free of charge by any corporation, firm or person, or by any public agency (including the United States of America, the State, and any city, county, public agency, political subdivision, public corporation or agency of any thereof), unless otherwise required by law or existing written agreements.

Section 6.13. Payment of Claims. The District will pay and discharge any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien or charge upon the Enterprise or upon the Gross Revenues or any part thereof, or upon any funds held by the Trustee, or which might impair the security of the Installment Payments; except that nothing herein contained shall require the District to make any such payments so long as the District in good faith shall contest the validity of any such claims and such nonpayment will not materially adversely affect the District's ability to perform its obligations hereunder.

Section 6.14. Books of Record and Accounts; Financial Statements. The District will keep proper books of record and accounts in which complete and correct entries shall be made of all transactions relating to the Enterprise, the Sewer Fund and all other accounts or funds established pursuant hereto, and upon request will provide information concerning such books of record and accounts to the Trustee (who has no duty or obligation to make such request).

The District will annually cause to be prepared by an Independent Certified Public Accountant, not later than 270 days after the close of each Fiscal Year, until all Installment Payments have been fully paid, or provision has been made therefor in accordance with Section 9.1, audited financial statements of the District containing schedules relating to the Sewer Fund. The District shall maintain accurate books and records for each Fiscal Year of all accounts or funds established pursuant hereto for the preceding Fiscal Year, showing the balances in each such account or fund as of the beginning of such Fiscal Year, all deposits in and withdrawals from each such account or fund during such Fiscal Year, and the balances in each such account or fund as of the end of such Fiscal Year.

Section 6.15. Payment of Taxes and Other Charges and Compliance with Governmental Regulations. The District will pay and discharge all taxes, service charges, assessments and other governmental charges which may hereafter be lawfully imposed upon the Enterprise or any properties owned by the District, or upon the Gross Revenues, when the same shall become due; provided, that nothing herein contained shall require the District to make any such payments so long as the District in good faith shall contest the validity of any such taxes, service charges, assessments or other governmental charges and such nonpayment will not materially adversely affect the District's ability to perform its obligations hereunder.

The District will duly comply with all applicable state, federal and local statutes and all valid regulations and requirements of any governmental authority relative to the operation of the

Enterprise or any part thereof, but the District shall not be required to comply with any regulations or requirements so long as the validity or application thereof shall be contested in good faith and such noncompliance will not materially adversely affect the District's ability to perform its obligations hereunder.

Section 6.16. Tax Covenants and Matters.

(a) General. The District and the Corporation acknowledge that this Agreement is intended to be treated for federal income tax purposes as an obligation the debt service on which comprises the mandatory rental or installment payments, respectively, that undivided interests in the form of certificates of participation were or are to be sold in respect of that obligation. The District hereby covenants, for the benefit of the Corporation and the Owners and Beneficial Owners of the Certificates that, notwithstanding any other provisions of this Agreement, it shall not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest component of the Installment Payments under Section 103 of the Code. The District shall not, directly or indirectly, use or permit the use of proceeds of the Certificates or any of the property financed or refinanced with proceeds of the Certificates, or any portion thereof, by any person other than a governmental unit (as such term is used in Section 141 of the Code and applicable Treasury Regulations) in such manner or to such extent as would result in the loss of exclusion from gross income for federal income tax purposes of the interest component of the Installment Payments.

(b) Use of Proceeds. The District shall not take any action, or fail to take any action, if any such action or failure to take action would cause this Agreement to be "private activity bonds" within the meaning of Section 141 of the Code and applicable Treasury Regulations, and in furtherance thereof, shall not make any use of the proceeds of the Certificates or any of the property financed or refinanced with proceeds of the Certificates, or any portion thereof, or any other funds of the District, that would cause this Agreement to be "private activity bonds" within the meaning of Section 141 of the Code. To that end, so long as any Certificates are Outstanding, the District, with respect to such proceeds and property and such other funds, will comply with applicable requirements of the Code and applicable Treasury Regulations, to the extent such requirements are, at the time, applicable and in effect. The District shall establish reasonable procedures necessary to ensure continued compliance with Section 141 of the Code and the continued qualification of this Agreement as "governmental bonds."

(c) Arbitrage. The District shall not, directly or indirectly, use or permit the use of any proceeds of any Certificates, or of any property financed or refinanced thereby, or other funds of the District, or take or omit to take any action, that would cause this Agreement to be "arbitrage bonds" within the meaning of Section 148 of the Code and applicable Treasury Regulations, and shall not otherwise take any action, or fail to take action, if such action or failure to take action would cause this Agreement to be "arbitrage bonds" with the meaning of Section 148 of the Code and applicable Treasury Regulations. To that end, the District shall comply with all requirements of Section 148 of the Code and applicable Treasury Regulations to the extent such requirements are, at the time, in effect and applicable to this Agreement and the Certificates.

(d) Federal Guarantee. The District shall not make any use of the proceeds of the Certificates or any other funds of the District, or take or omit to take any other action, that

would cause this Agreement to be “federally guaranteed” within the meaning of Section 149(b) of the Code, and shall not otherwise take any action, or fail to take action, when such action or failure to take action would cause this Agreement to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

(e) Compliance with Tax Certificate. In furtherance of the foregoing tax covenants of this Section 6.16, the District covenants that it will comply with the provisions of the Tax Certificate, which is incorporated herein as if fully set forth herein. These covenants shall survive payment in full of the Purchase Price or defeasance of the Certificates.

Section 6.17. Continuing Disclosure. The District hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Agreement, failure of the District to comply with the Continuing Disclosure Certificate shall not be considered an Event of Default; however, any Participating Underwriter or any Owner or Beneficial Owner of the Bonds may take such actions as described under the Continuing Disclosure Certificate to cause the District to comply with its obligations under this Section.

Section 6.18. Preservation of Corporation. The District covenants to take whatever action is necessary to preserve the existence of the Corporation until payment in full of the Purchase Price or defeasance of the Certificates.

Section 6.19. Further Assurances. The District will adopt, make, execute and deliver any and all such further documents, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof.

ARTICLE VII

PREPAYMENT OF INSTALLMENT PAYMENTS

Section 7.1. Prepayment.

(a) *Prepayment from Net Proceeds.* The District may or shall, as the case may be, prepay from the Net Proceeds as provided in Sections 6.7 and 6.8 herein, the Installment Payments as a whole or in part in the order of payment date as directed by the District (or in the event the District has not directed the order of payment date, in inverse order of maturity) at a Prepayment Price equal to the sum of the principal amount prepaid plus accrued interest thereon to the date of prepayment as provided in Section 4.03 of the Trust Agreement.

(b) *Optional Prepayment.* The District may, from any available funds, prepay the Installment Payments, as a whole or in part, on any date on or after June 1, 2030, on a pro rata basis, or as otherwise directed by the District; provided that any prepayment of a principal component of the Installment Payments shall be an amount sufficient to provide for the prepayment or defeasance of Certificates in accordance with the provisions of the Trust Agreement. The prepayment of the principal component of the Installment Payments shall be at a Prepayment Price equal to the sum of the principal amount prepaid plus accrued interest thereon to the date of prepayment as provided in Section 4.01 of the Trust Agreement.

(c) *Deposit.* The Corporation shall accept such prepayments when the same are tendered by the District. All prepayments of Installment Payments made by the District pursuant to this Section shall, upon receipt, be transferred to the Trustee for deposit in the Installment Payment Fund and subsequent deposit into the Prepayment Account of the Installment Payments Fund under the Trust Agreement pursuant to Section 5.02(b)(iii) thereof, or deposited as provided under Article X of the Trust Agreement to discharge the Certificates.

Section 7.2. Method of Payment. With respect to prepayments of Installment Payments pursuant to Section 7.1, the District shall determine which Installment Payments are to be prepaid, including the principal component of the Installment Payment due on each Installment Payment Date to be paid or prepaid with such prepayments, and, subject to the provisions of Section 7.1, the date on which each such prepayment is to be made. Before making any prepayment pursuant to Section 7.1, the District shall give written notice to the Corporation and the Trustee specifying the date on which the prepayment will be paid, which date shall be not less than 45 days from the date such notice is given; except that, notwithstanding any such prepayment, the District shall not be relieved of its obligations hereunder, including specifically its obligations under Article IV, until all Installment Payments shall have been fully paid, or provision for payment thereof shall have been made pursuant to Section 9.1.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES OF THE DISTRICT

Section 8.1. Events of Default and Acceleration of Maturities. There shall be an Event of Default if one or more of the following shall happen:

(a) if default is made by the District in the due and punctual payment of any Installment Payment or any other Parity Obligations when and as the same shall become due and payable;

(b) if default is made by the District in the performance of any of the other agreements or covenants required herein to be performed by it, and such default has continued for a period of 30 days after the District has been given notice in writing of such default by the Corporation or the Trustee; except that such default will not constitute an Event of Default hereunder if the District commences to cure such default within such 30-day period and thereafter diligently and in good faith proceeds to cure such default within a reasonable period of time;

(c) if the District shall file a petition or answer seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if a court of competent jurisdiction shall approve a petition filed with or without the consent of the District seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the District or of the whole or any substantial part of its property; or

(d) if payment of the principal of any Parity Obligations is accelerated in accordance with its terms;

then, and in each and every such case during the continuance of an Event of Default specified in clauses (c) and (d) above, the Corporation shall, and for any other Event of Default the Corporation may, by notice in writing to the District, declare all unpaid principal components of the Installment Payments and the accrued interest thereon to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable. This subsection however, is subject to the condition that if, at any time after all unpaid principal components of the Installment Payments and the accrued interest thereon shall have been so declared due and payable and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, the District shall deposit with the Corporation a sum sufficient to pay the unpaid principal components and interest components of the Installment Payments then due and payable (other than the principal components of the Installment Payments and the accrued interest thereon due and payable solely by reason of such declaration), with interest on such overdue Installment Payments at the highest rate applicable to the remaining unpaid principal component of the Installment Payments, and the reasonable expenses of the Corporation and the Trustee shall have been paid or provision deemed by the Corporation or the Trustee, as applicable, to be adequate shall have been made therefor, and any and all other Events of Default shall have been made good or cured to the satisfaction of the Corporation or provision deemed by the Corporation to be adequate shall have been made therefor, then and in every such case the Corporation, by written notice to the District, may rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent default or shall impair or exhaust any right or power consequent thereon.

Section 8.2. Application of Funds Upon Acceleration. Upon the date of the declaration of acceleration as provided in Section 8.1, all Gross Revenues thereafter received shall be applied in the following order:

First, to the payment, without preference or priority, and in the event of any insufficiency of such Gross Revenues ratably without any discrimination or preference, of the fees, costs and expenses of the Trustee and the trustee for any other Parity Obligations, then the Corporation, including the costs, if any, in carrying out the provisions of this Article, including reasonable compensation to accountants and counsel and similar costs with respect to this Agreement and Parity Obligations;

Second, to the payment of Operation and Maintenance Costs;

Third, to the payment of all unpaid principal components of the Installment Payments and the accrued interest thereon and the unpaid principal amount of all other Parity Obligations and the accrued interest thereon, with interest on the overdue Installment Payments at the highest rate of interest applicable to the unpaid principal components of the Installment Payments and, with respect to such other Parity Obligations, as required by the terms of such other Parity Obligations; and

Fourth, to amounts due to any provider of credit enhancement for other Parity Obligations.

Section 8.3. Other Remedies of the Corporation. In addition to remedies elsewhere provided in this Agreement, upon the continuance of an Event of Default, the Corporation shall have the right:

(a) by mandamus or other action or proceeding or suit at law or in equity, to enforce its rights against the District or any director, officer or employee thereof, and to compel the District or any such director, officer or employee to perform and carry out its or their duties under applicable law and the agreements and covenants required to be performed by it or them contained herein;

(b) by suit in equity, to enjoin any acts or things which are unlawful or violate the rights of the Corporation;

(c) by suit in equity, to require the District and its directors, officers and employees to account as the trustee of an express trust; or

(d) by mandamus or other action or proceeding or suit at law or in equity, to pursue any other remedy now or hereafter existing in law or in equity or by statute or otherwise to enforce the performance of the District's obligations hereunder and to otherwise protect the Corporation's rights and interests in connection with this Agreement.

Notwithstanding anything contained herein, the Corporation shall have no security interest in or mortgage on the Project, the Enterprise or other facilities of the District, or any other real property of the District, and no default hereunder shall result in the loss of the Project, the Enterprise or other facilities of the District or any other real property of the District.

Section 8.4. Non Waiver. Nothing in this Article or in any other provision hereof shall affect or impair the obligation of the District, which is absolute and unconditional, to pay the Installment Payments to the Corporation at the respective due dates from the Net Revenues, the Sewer Fund and the other funds pledged for such payment, or shall affect or impair the right of the Corporation, which is also absolute and unconditional, to institute suit to enforce such payment by virtue of the contract embodied herein.

A waiver of any default or breach of duty or contract by the Corporation shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Corporation to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Corporation by applicable law or by this article may be enforced and exercised from time to time and as often as shall be deemed expedient by the Corporation. If any action, proceeding or suit to enforce any right or exercise any remedy is abandoned or determined adversely to the Corporation, the District and the Corporation shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

Section 8.5. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Corporation is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter

existing in law or in equity or by statute or otherwise and may be exercised without exhausting and without regard to any other remedy conferred by any other law.

ARTICLE IX

DISCHARGE OF OBLIGATIONS

Section 9.1. Discharge of Installment Payments. Notwithstanding any other provision of this Agreement, the District may on any date secure the payment of Installment Payments in whole or in part by irrevocably depositing with the Trustee, an escrow agent or other fiduciary, an amount of cash which is either (a) sufficient to pay all such Installment Payments in accordance with the Installment Payment schedule set forth in Exhibit C, or (b) invested in whole or in part in non-callable Government Obligations in such amount as will, together with interest to accrue thereon and together with any cash which is so deposited, in the written opinion of an Independent Certified Public Accountant, be fully sufficient to pay all such Installment Payments when due pursuant to Article IV, or when due on any optional prepayment date pursuant to Article VII, as the District shall instruct at the time of the deposit. In the event of a security deposit pursuant to this Section 9.1 with respect to all of the Installment Payments, all obligations of the District under this Agreement, and all security provided by this Agreement for such obligations, shall cease and terminate, excepting only the obligation of the District to make, or cause to be made, all of such Installment Payments from such security deposit, and the obligation of the District to pay all required Additional Payments pursuant to Section 4.3. The security deposit shall be deemed to be and shall constitute a special fund for the payment of Installment Payments in accordance with the provisions of this Agreement.

In the event that Certificates are discharged under Article X of the Trust Agreement from amounts other than prepayments of Installment Payments, the principal component of each succeeding Installment Payment will be reduced (with the interest component of each remaining Installment Payment reduced correspondingly) by the aggregate corresponding amount which would otherwise be payable with respect to the Certificates thereby discharged pursuant to the applicable provisions of the Trust Agreement.

Section 9.2. Credit for Amounts on Deposit. In the event of prepayment of the principal components of the Installment Payments in full under this Article IX, such that the Trust Agreement shall be discharged by its terms as a result of such prepayment, and upon payment in full of all Additional Payments and other amounts then due and payable hereunder, all available amounts then on deposit in the funds and accounts established under the Trust Agreement shall be credited towards the amounts then required to be so prepaid or upon the Written Request of the District.

ARTICLE X

MISCELLANEOUS

Section 10.1. Liability of District Limited to Net Revenues. Notwithstanding anything contained herein, the District shall not be required to advance any moneys derived from any source of income other than Net Revenues for the payment of the Installment Payments or for the

performance of any agreements or covenants required to be performed by it contained herein. The District may, however, advance moneys for any such purpose so long as such moneys are derived from a source legally available for such purpose and may be legally used by the District for such purpose.

The obligation of the District to make the Installment Payments and any other payments hereunder is a special obligation of the District payable solely from the Net Revenues, and does not constitute a debt of the District or of the State or of any political subdivision thereof in contravention of any constitutional or statutory debt limitation or restriction.

Section 10.2. Successor Is Deemed Included in all References to Predecessor. Whenever either the District or the Corporation is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the District or the Corporation, and all assignees of the District or the Corporation permitted hereunder. All agreements and covenants required hereby to be performed by or on behalf of the District or the Corporation shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 10.3. Waiver of Personal Liability. No director, officer or employee of the District shall be individually or personally liable for the payment of the Installment Payments or be subject to any personal liability by reason of the execution of this Agreement or the execution and delivery of the Certificates.

Section 10.4. Article and Section Headings, Gender and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof, and words of any gender shall be deemed and construed to include all genders. All references herein to "Articles," "Sections" and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words "hereby," "herein," "hereof," "hereto," "herewith" and other words of similar import refer to this Agreement as a whole and not to any particular article, section, subdivision or clause hereof.

Section 10.5. Partial Invalidity. If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the District or the Corporation shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof. The District and the Corporation hereby declare that they would have executed this Agreement, and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof, irrespective of the fact that any one or more articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

Section 10.6. Assignment; Third-Party Beneficiary. The District acknowledges and agrees that the Installment Payments, and certain of the Corporation's rights under this Agreement will be assigned to the Trustee. The District consents to such assignment. In addition to the rights and remedies assigned by the Corporation to the Trustee, to the extent that the Trust Agreement

and this Agreement confer upon or gives or grants to the Trustee any right, remedy or claim under or by reason of the Trust Agreement or this Agreement, the Trustee is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred given or granted.

Section 10.7. California Law. This Agreement shall be construed and governed in accordance with the laws of the State with respect to contracts entered into and to be performed in the State.

Section 10.8. Effective Date. This Agreement shall become effective upon its execution and delivery, and shall terminate when the provisions of Article IX have been satisfied.

Section 10.9. Execution in Counterparts; Electronic Signatures. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument. Each of the parties hereto agrees that the transaction consisting of this Agreement may be conducted by electronic means. Each party agrees and acknowledges that it is such party's intent that if such party signs this Agreement using an electronic signature it is signing, adopting, and accepting this Agreement and that signing this Agreement using an electronic signature is the legal equivalent of having placed its handwritten signature on this Agreement in usable format.

Section 10.10. Indemnification of Corporation and Trustee. To the fullest extent permitted by law, the District agrees to indemnify and save the Corporation and the Trustee and their respective officers, agents, directors, employees, successors and assigns harmless from and against all claims, losses and damages, including legal fees and expenses, arising out of (a) the use, maintenance, condition or management of, or from any work or thing done on the Enterprise by the District, (b) any breach or default on the part of the District in the performance of any of its obligations under this Agreement, (c) any negligence or willful misconduct of the District or of any of its agents, contractors, servants, employees or licensees with respect to the Enterprise, (d) any act or negligence of any sublessee of the District with respect to the Enterprise, (e) the performance by the Trustee of its duties and obligations under the Trust Agreement, and in connection with this Installment Purchase Agreement and any document executed herewith or therewith, (f) the presence on, under or about, or release from, the Enterprise of any substance, material or waste which is, or which becomes, regulated or classified as hazardous or toxic under State, federal or local law, or (g) the offer, sale, execution and delivery of the Certificates. No indemnification is made under this Section 10.10 or elsewhere in this Agreement for the negligence, willful misconduct, or breach of duty under the Trust Agreement by the Trustee, or its officers, employees, successors or assigns. The rights of the Trustee and the obligations of the District under this Section 10.10 shall survive the termination of this Agreement or the resignation or removal of the Trustee.

Section 10.11. Amendments. This Agreement may only be amended in accordance with the terms applicable to the Corporation in Section 6.02 of the Trust Agreement and any other limitations to amendment of this Agreement with respect to any Parity Obligations.

(Signatures on next page.)

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

NIPOMO COMMUNITY SERVICES DISTRICT

By: _____
President

NIPOMO COMMUNITY SERVICES DISTRICT
PUBLIC FACILITIES CORPORATION

By: _____
Executive Director

EXHIBIT A
DESCRIPTION OF THE PROJECT

Prior Project

The capital improvements to the Enterprise described in Exhibit B to the Installment Sale Agreement, dated June 1, 2012, between the Corporation and the District, relating to the Prior Obligations, including:

Phase 1 of the Southland Wastewater Project Upgrade which replaced the current 0.9 million gallon per day (MGD) pond plant with a new treatment plant that will include an influent lift station, influent screening system, grit removal system, Biolac® aeration basin to treat wastewater, a clarifier, gravity belt thickener, two concrete lined sludge drying beds, controls & blower building, and a non-potable plant water system and potentially the provision of additional facilities at the Southland Wastewater Treatment Facility for wastewater disposal. Phase I improvements increased the level of treatment at the Southland Wastewater Treatment Facility while maintaining the existing discharge capacity of 0.9 million gallons per day. Additionally, the Phase I project facilitated the additional phases of construction required for future flows and loadings at the Southland Wastewater Treatment Facility.

2022 Project

Capital improvements to the Enterprise, including, but not limited to, primarily the following improvements:

Replacement of trunk sewer in Frontage Road which the District will replace and upsize 4,700 lineal feet of 10-inch and 12-inch sewer trunk main with 15-inch and 18-inch trunk main between Division Street and Juniper Street.

EXHIBIT B

PRINCIPAL COMPONENTS OF INSTALLMENT PAYMENTS

The principal components of the Installment Payments shall consist of the sum of the following amounts, with each such principal component being payable five (5) days prior to the due date for such principal component set forth below, or if such day is not a Business Day, then the preceding Business Day, and with each such principal component bearing interest at the interest rate per annum set forth below:

<u>Due Date</u>	<u>Principal Component</u>	<u>Interest Rate</u>
	\$	%

EXHIBIT C

SCHEDULE OF INSTALLMENT PAYMENTS AS OF CLOSING DATE

As of the Closing Date, the Installment Payments consist of the following amounts of principal and interest and are payable on Installment Payment Dates which are five (5) days prior to each of the dates set forth below (or if such day is not a Business Day, then the preceding Business Day):

<u>Date</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Annual Totals</u>
		\$	\$

<u>Date</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Annual Totals</u>
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<u>Total</u>	<u>\$(PAR AMOUNT)</u>	<u>\$</u>	<u>\$</u>
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JANUARY 26, 2022

ITEM E-1

ATTACHMENT 5

ESCROW AGREEMENT

by and between

NIPOMO COMMUNITY SERVICES DISTRICT

and

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Escrow Agent and Prior Trustee**

Dated as of March 1, 2022

**Nipomo Community Services District
Revenue Certificates of Participation (Southland Wastewater Project)
Series 2012**

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (this “Escrow Agreement”), dated as of March 1, 2022, is by and between the NIPOMO COMMUNITY SERVICES DISTRICT, a special district organized and existing under the laws of the State of California (the “District”), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association organized and existing under the laws of the United States of America, as escrow agent (the “Escrow Agent”) and as trustee (the “Prior Trustee”) to under the Prior Trust Agreement referenced below.

WITNESSETH:

WHEREAS, to finance the acquisition, construction and installation of certain improvements to its Town Division wastewater system (the “Prior Project”), the District has heretofore purchased the Prior Project from the Nipomo Community Services District Public Facilities Corporation (the “Corporation”), and the Corporation has heretofore sold the Prior Project to the District, for the installment payments (the “Prior Installment Payments”) to be made by the District pursuant to the Installment Sale Agreement, dated as of June 1, 2012 (the “Prior Installment Sale Agreement”), by and between the District and the Corporation;

WHEREAS, to provide the funds necessary to finance the Prior Project, the District caused the execution and delivery of the Nipomo Community Services District Revenue Certificates of Participation (Southland Wastewater Project), Series 2012 (the “Prior Obligations”), evidencing direct, undivided fractional interests in the related Prior Installment Payments, pursuant to the Trust Agreement, dated as of June 1, 2012 (the “Prior Trust Agreement”), by and among the Prior Trustee, the Corporation and the District;

WHEREAS, the District has determined to refinance the Prior Project by paying and prepaying the remaining principal components of the Prior Installment Payments (the “Refunded Installment Payments”), and the interest components thereof to the date of prepayment, thereby causing to be prepaid all of the currently outstanding Prior Obligations, in the aggregate principal amount of \$8,325,000;

WHEREAS, to provide the funds necessary to pay and prepay the Refunded Installment Payments and for certain other purposes, the District has caused to be executed and delivered the Nipomo Community Services District Wastewater Revenue Certificates of Participation, Series 2022 (the “Certificates”), evidencing principal in the aggregate amount of \$ _____, pursuant to the Trust Agreement, dated as of March 1, 2022, by and among The Bank of New York Mellon Trust Company, N.A., as trustee, the Corporation and the District;

WHEREAS, in accordance with the Prior Trust Agreement, the prepayment of the Refunded Installment Payments will be applied to the prepayment of the outstanding Prior Obligations on June 1, 2022 (the “Prepayment Date”) at a prepayment price equal to the principal amount thereof plus accrued interest thereon, without premium (the “Prepayment Price”), pursuant to this Escrow Agreement;

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

Section 1. Definitions. Unless otherwise defined herein, capitalized terms used herein shall have the meanings ascribed to such terms in the Prior Trust Agreement.

Section 2. The Escrow Fund. (a) There is hereby established a fund (the "Escrow Fund") to be held as an irrevocably pledged escrow by the Escrow Agent, which the Escrow Agent shall keep separate and apart from all other funds of the District and the Escrow Agent and to be applied solely as provided in this Escrow Agreement. Pending application as provided in this Escrow Agreement, amounts on deposit in the Escrow Fund are hereby pledged solely to the payment of the interest evidenced by the Prior Obligations to and including the Prepayment Date and the payment of the Prepayment Price on the Prepayment Date, which amounts shall be held in trust by the Escrow Agent for the Owners of the Prior Obligations.

(b) The Prior Trustee is hereby instructed to liquidate any investments held in the funds and accounts established under the Prior Trust Agreement. The Prior Trustee has informed the District that there is no less than \$_____ on deposit in such funds and accounts and is hereby instructed to transfer \$_____ (the "District Funds") held in the Installment Payment Fund (\$_____) and in the Reserve Fund (\$_____) [*include any other funds available – confirm with Trustee*] established under the Prior Trust Agreement for deposit in the Escrow Fund. Upon the execution and delivery of the Certificates, there shall be deposited in the Escrow Fund \$_____ received from the proceeds of the sale of the Certificates and \$_____ from the District Funds, for a total of \$8,490,124.38 (the "Escrow Deposit").

(c) The District has determined or caused to be determined that upon the deposit of the Escrow Deposit pursuant to Section 2(b) hereof, the moneys on deposit in the Escrow Fund will be sufficient to make the payments required by Section 4 hereof.

Section 3. Use of Moneys in Escrow Fund. (a) The Escrow Agent hereby acknowledges deposit of the moneys described in Section 2(b) hereof. The Escrow Agent shall hold moneys credited to the Escrow Fund uninvested.

(b) The Owners of the Prior Obligations shall have a first and exclusive lien on the moneys credited to the Escrow Fund until such moneys are used and applied as provided in this Escrow Agreement and the Prior Trust Agreement to prepay in full then outstanding Prior Obligations on the Prepayment Date.

Section 4. Payment of Prior Obligations. From the money held in the Escrow Fund, the Escrow Agent shall apply such amounts to the payment of the interest evidenced by the Prior Obligations to and including the Prepayment Date and to the payment of the Prepayment Price of the Prior Obligations on the Prepayment Date, all as set forth in Schedule I hereto. To the extent that the amount on deposit in the Escrow Fund on the Prepayment Date is in excess of the amount necessary to make the required payments with respect to the Prior

Obligations, such excess shall be transferred to the Trustee for deposit in the Installment Payment Fund established under the Trust Agreement.

Section 5. Irrevocable Instructions to Mail Defeasance Notice; Delivery of Prepayment Notice. The District hereby irrevocably instructs the Prior Trustee to give notice on the date of delivery of the Certificates of defeasance of the Prior Obligations to the Owners thereof, substantially in the form set forth in Exhibit A hereto. The District hereby confirms designation of the Prior Obligations for prepayment on the Prepayment Date. The District hereby irrevocably instructs the Prior Trustee to give notice of prepayment of such Prior Obligations to the owners thereof in accordance with the provisions of the Prior Trust Agreement, substantially in the form set forth in Exhibit B.

Section 6. Performance of Duties; Acknowledgement with Respect to Irrevocable Instructions. The Escrow Agent hereby agrees to perform the duties set forth herein and agrees that the irrevocable instructions to the Escrow Agent herein provided are in a form satisfactory to it.

Section 7. Escrow Agent's Authority to Transfer or Dispose of Funds. The Escrow Agent shall have no power or duty to transfer or otherwise dispose of the moneys held hereunder except as provided herein.

Section 8. Indemnity. To the extent permitted by law, the District hereby assumes liability for, and hereby agrees to indemnify, protect, save and keep harmless the Escrow Agent and its respective successors, assigns, agents, employees and servants, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including reasonable legal fees, expenses and disbursements) of whatsoever kind and nature which may be imposed on, incurred by, or asserted against, the Escrow Agent at any time in any way relating to or arising out of the execution, delivery and performance of this Escrow Agreement, the establishment hereunder of the Escrow Fund, the acceptance of the moneys deposited therein, and any payment, transfer or other application of moneys by the Escrow Agent in accordance with the provisions of this Escrow Agreement; provided, however, that the District shall not be required to indemnify the Escrow Agent against the Escrow Agent's own negligence or willful misconduct or the negligence or willful misconduct of the Escrow Agent's respective successors, assigns, agents and employees or the material breach by the Escrow Agent of the terms of this Escrow Agreement. In no event shall the District or the Escrow Agent be liable to any person by reason of the transactions contemplated hereby other than to each other as set forth in this Section. The indemnities contained in this Section shall survive the termination of this Escrow Agreement.

Section 9. Responsibilities of Escrow Agent. The Escrow Agent makes no representation as to the sufficiency of the funds deposited in accordance with Section 2(b) to accomplish the prepayment of the Prior Obligations pursuant to the Prior Trust Agreement or to the validity of this Escrow Agreement as to the District and, except as otherwise provided herein, the Escrow Agent shall incur no liability in respect thereof. The Escrow Agent shall not be liable in connection with the performance of its duties under this Escrow Agreement except for its own negligence, willful misconduct or default, and the duties and obligations of the Escrow Agent shall be determined by the express provisions of this Escrow Agreement. The Escrow Agent

may consult with counsel, who may or may not be counsel to the District, and in reliance upon the written opinion of such counsel shall have full and complete authorization and protection in respect of any action taken, suffered or omitted by it in good faith in accordance therewith. Whenever the Escrow Agent shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering, or omitting any action under this Escrow Agreement, such matter (except the matters set forth herein as specifically requiring a certificate of a nationally recognized firm of independent certified public accountants or an opinion of counsel of recognized standing in the field of law relating to municipal bonds) may be deemed to be conclusively established by a written certification of the District.

The Escrow Agent shall furnish the District periodic cash transaction statements which include detail for all investment transactions effected by the Escrow Agent or brokers selected by the District. Upon the District's election, such statements will be delivered via the Escrow Agent's online service and upon electing such service, paper statements will be provided only upon request. The District waives the right to receive brokerage confirmations of security transactions effected by the Escrow Agent as they occur, to the extent permitted by law. The District further understands that trade confirmations for securities transactions effected by the Escrow Agent will be available upon request and at no additional cost and other trade confirmations may be obtained from the applicable broker. Nothing in this paragraph limits Section 3.1(a).

The Escrow Agent undertakes to perform only such duties as are expressly set forth in this Agreement and no implied duties, covenants or obligations shall be read into this Agreement against the Escrow Agent.

No provision of this Escrow Agreement shall require the Escrow Agent to expend or risk its own funds or otherwise incur any financial liability in the performance or exercise of any of its duties hereunder, or in the exercise of its rights or powers.

The Escrow Agent may resign by giving written notice to the District, and upon receipt of such notice the District shall promptly appoint a successor Escrow Agent. If the District does not appoint a successor Escrow Agent within thirty (30) days of receipt of such notice, the resigning Escrow Agent may petition a court of competent jurisdiction for the appointment of a successor Escrow Agent, which court may thereupon, upon such notice as it shall deem proper, appoint a successor Escrow Agent. Upon acceptance of appointment by a successor Escrow Agent, the resigning Escrow Agent shall transfer all amounts held by it in the Escrow Fund to such successor Escrow Agent and be discharged of any further obligation or responsibility hereunder.

Section 10. Amendments. The District and the Escrow Agent may (but only with the consent of the Owners of all of the Prior Obligations) amend this Escrow Agreement or enter into agreements supplemental to this Escrow Agreement.

Section 11. Term. This Escrow Agreement shall commence upon its execution and delivery and shall terminate on the date upon which the Prior Obligations have been paid in accordance with this Escrow Agreement.

Section 12. Compensation. The District shall from time to time pay or cause to be paid to the Escrow Agent the agreed upon compensation for its services to be rendered hereunder, and reimburse the Escrow Agent for all of its reasonable advances in the exercise and performance of its duties hereunder; provided, however, that under no circumstances shall the Escrow Agent be entitled to any lien whatsoever on any moneys or obligations in the Escrow Fund for the payment of fees and expenses for services rendered or expenses incurred by the Escrow Agent under this Escrow Agreement or otherwise.

Section 13. Severability. If any one or more of the covenants or agreements provided in this Escrow Agreement on the part of the District or the Escrow Agent to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenants or agreements shall be null and void and shall be deemed separate from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Escrow Agreement.

Section 14. Counterparts. This Escrow Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as an original but all of which shall constitute and be but one and the same instrument.

Section 15. Governing Law. This Escrow Agreement shall be construed under the laws of the State of California.

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

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,**
as Escrow Agent and Prior Trustee

By: _____
Authorized Officer

NIPOMO COMMUNITY SERVICES DISTRICT

By: _____
Mario Iglesias, General Manager

SCHEDULE I

PAYMENT REQUIREMENTS OF THE PRIOR OBLIGATIONS

<u>Payment Date</u>	<u>Interest</u>	<u>Principal Due</u>	<u>Principal Prepaid</u>	<u>Total</u>
6/1/2022	\$165,124.38	\$265,000.00	\$8,060,000.00	\$8,490,124.38

EXHIBIT A

NOTICE OF DEFEASANCE

NIPOMO COMMUNITY SERVICES DISTRICT
REVENUE CERTIFICATES OF PARTICIPATION
(SOUTHLAND WASTEWATER PROJECT), SERIES 2012

<u>Maturity Date (June 1)</u>	<u>Principal Amount Outstanding</u>	<u>CUSIP Number* (654536)</u>
2022	\$ 265,000	BR1
2023	275,000	BS9
2024	285,000	BT7
2025	295,000	BU4
2026	305,000	BV2
2027	315,000	BW0
2028	330,000	BX8
2029	340,000	BY6
2031	725,000	BZ3
2032	385,000	CA7
2034	815,000	CB5
2036	880,000	CC3
2042	3,110,000	CD1

NOTICE IS HEREBY GIVEN that on March ____, 2022, the Nipomo Community Services District (the "District") caused to be deposited with The Bank of New York Mellon Trust Company, N.A., as escrow agent (the "Escrow Agent"), pursuant to an Escrow Agreement, dated as of March 1, 2022, by and between the District and the Escrow Agent, proceeds of its Wastewater Revenue Certificates of Participation, Series 2022, together with other available monies, which will be sufficient to prepay on June 1, 2022 (the "Prepayment Date") all of the principal components of Installment Payments evidenced by the District's outstanding Revenue Certificates of Participation (Southland Wastewater Project), Series 2012 (the "Prior Obligations"), plus accrued interest components evidenced thereby to the Prepayment Date, without premium (the "Prepayment Price"). The Escrow Agent is obligated to pay or cause to be paid to the Owners of the Prior Obligations all sums due thereon, but only from moneys deposited with the Escrow Agent as described in this paragraph. As a result of such deposit, the Prior Obligations are deemed to have been paid in accordance with the applicable provisions of the Trust Agreement, dated as of June 1, 2012, by and among The Bank of New York Mellon Trust Company, N.A., as successor Trustee, the Nipomo Community Services District Financing Corporation and the District, pursuant to which the Prior Obligations were executed and delivered.

Dated: _____, 2022

By: THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A., as Trustee and Escrow Agent on
behalf of the Nipomo Community Services District

* CUSIP is a registered trademark of the American Bankers Association. CUSIP data herein is provided by CUSIP Global Services (CGS), managed on behalf of the American Bankers Association by S&P Global Market Intelligence. Neither the District nor the Trustee/Escrow Agent shall have any responsibility for any defect in the CUSIP numbers that appear in this defeasance notice. The CUSIP numbers have been assigned by an independent service for convenience of reference, and neither the District nor the Trustee/Escrow Agent shall not be liable for any inaccuracy in such number.

EXHIBIT B

NOTICE OF OPTIONAL PREPAYMENT

**NIPOMO COMMUNITY SERVICES DISTRICT
REVENUE CERTIFICATES OF PARTICIPATION
(SOUTHLAND WASTEWATER PROJECT), SERIES 2012**

NOTICE IS HEREBY GIVEN to the owners of the above-captioned Certificates of Participation that the Certificates of Participation listed below (the "Certificates"), executed and delivered pursuant to the Trust Agreement, dated as of June 1, 2012 (the "Trust Agreement"), by and among the Nipomo Community Services District (the "District"), the Nipomo Community Services District Public Facilities Corporation (the "Corporation"), and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), have been called for prepayment on June 1, 2022 (the "Prepayment Date"), pursuant to the provisions of the Trust Agreement.

The Certificates called for prepayment have the maturity date, principal amount, CUSIP Number and prepayment price as set forth below:

Maturity Date (June 1)	Principal Amount	CUSIP[†] (Base No: 654536)	Prepayment Price	Maturity Date (June 1)	Principal Amount	CUSIP[†] (Base No: 654536)	Prepayment Price
2023	\$275,000	BS9	100%	2029	\$ 340,000	BY6	100%
2024	285,000	BT7	100	2031	725,000	BZ3	100
2025	295,000	BU4	100	2032	385,000	CA7	100
2026	305,000	BV2	100	2034	815,000	CB5	100
2027	315,000	BW0	100	2036	880,000	CC3	100
2028	330,000	BX8	100	2042	3,110,000	CD1	100

Owners of the Certificates should surrender said Certificates on the Prepayment Date at the following address:

First Class/Registered/Certified/Express/Hand Deliver Only

BNY Mellon Corp Trust
Attn: Transfers/Redemption
2001 Bryan Street 10th Floor
Dallas, TX 75201

Additional information regarding the foregoing actions may be obtained from The Bank of New York Mellon Trust Company, N.A., Corporate Trust Department, Bondholder Relations, telephone number (800) 254-2826.

IMPORTANT NOTICE. Under the Jobs and Growth Tax Relief Reconciliation Act of 2003, federal backup withholding tax will be withheld at the applicable backup withholding rate in effect at the time the payment is made if the tax identification number is not properly certified.

Neither the District or the Trustee shall be held responsible for the selection or use of the CUSIP number, nor is any representation made as to its corrections indicated in this Notice of Optional Prepayment. It is included solely for convenience of the owners of the Certificates.

Failure to receive this Notice of Optional Prepayment or any immaterial defect contained herein shall not affect the sufficiency of the prepayment proceedings as provided in the Trust Agreement.

DATED: _____

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.
as Trustee